ALA Intellectual Freedom Committee
Report to Council
2021 ALA Midwinter Virtual
Tuesday, January 26, 2021

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

INFORMATION

Publications

The Intellectual Freedom Committee and the Office for Intellectual Freedom work together to keep ALA and the library community apprised of evolving intellectual freedom issues through an ongoing publications program that features both print and online resources. Foremost among these is the 10th edition of the *Intellectual Freedom Manual,* now available from the ALA Store. Edited by IFC Chair Martin Garnar with Assistant Editor Trina Magi, the manual is a living document that serves as the authoritative reference for day-to-day guidance on maintaining free and equal access to information for all people. The new edition of the manual features eight new interpretations of the *Library Bill of Rights* — which address urgent issues such as internet filtering, public performances, political activity, religion, and equity, diversity, and inclusion — as well as an expanded glossary and updated content about developing library policies. The editors and contributors to the manual will discuss its revised content at this Midwinter's *News You Can Use* session "Practical Answers for Evolving Issues: Introducing the 10th Edition of the Intellectual Freedom Manual." Co-sponsored by the Office for Intellectual Freedom and ALA Editions, the session will also review the IFC's process for crafting resources. ALA Midwinter attendees viewing the session will receive a code to purchase the manual at a discounted price. A follow-up virtual Q&A session is scheduled in February as an opportunity for ALA members to ask contributors questions.

Online, the Intellectual Freedom Blog offers perspectives and updates about intellectual freedom topics. Recently, it has also reported on IFC activities, including the committee's revision of "Access to Digital Resources and Services Q&A," reported on by IFRT liaison to IFC Steph Barnaby. The Choose Privacy Every Day blog provides perspectives and resources for protecting and advocating for users' privacy. This fall, the IFC Privacy Subcommittee recruited its first team of bloggers to offer guidance and share experiences about privacy topics. Recently, the blog has provided perspectives on the California Consumer Privacy Act, the Right to Be Forgotten in digital archives, and the balance of privacy and usability. Both the Intellectual

Freedom Blog and the Choose Privacy Every Day blog publish a roundup of news items every Friday.

The *Journal of Intellectual Freedom & Privacy* continues to update readers with peer-reviewed articles, book reviews, legal briefs, and opinion pieces, as well as serving as the publication of record detailing the latest incidents of censorship, court rulings, legal controversies, and success stories. Reports to Council from IFC, COPE, and FTRF are also included. The latest issue of the journal covered stories on social media and COVID-19 misinformation, as well as a history of censorship in the United States. More information about personal and institutional subscriptions can be found at journals.ala.org/index.php/jifp/index.

Merritt Fund

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. The Fund is wholly supported by individual donations from concerned members of the wider library community and is administered by a Board of Trustees elected from those contributing to the fund. This year's trustee election will take place in January 2021.

The trustees meet regularly to consider requests for assistance. Applications for assistance are available at www.merrittfund.org, or applicants can call 312-280-4226 for assistance. Trustees keep all requests in strict confidence.

To learn more about the history and work of the Merritt Fund, or to make a donation, please visit www.merrittfund.org.

CENSORSHIP AND RECENT CHALLENGES

Trends

Since 1990, the ALA Office for Intellectual Freedom (OIF) has been collecting data about banned and challenged library materials and services. ALA collects information from two sources: media reports culled from news outlets and social platforms; and reports submitted by individuals through the online form. The office presents Censorship Reports to inform members of trends and activities. From June 1, 2020 to Dec. 29, 2020, OIF has tracked 75 unique cases. OIF provided support and consultation on 53 cases. The office has noted the following censorship trends:

- Challenges to anti-racist materials

- Challenges that involve Black Lives Matter
- Challenges publicly shared on social media

Books	50
Graphic Novels	5
Films & Magazines	3
Programs	4
Displays	3
Social Media	4
Other (Databases, Filtering, Hate Crime, & Online Resources)	6

Snapshot of Recent Public Challenges and Bans

Lake Norman Charter School (North Carolina): Parents of a Lake Norman Charter School ninth grader have filed a federal lawsuit to remove *Poet X* by Elizabeth Acevedo from the classroom. They claim the book is overtly anti-Christian and that the school's use of the book is a violation of their freedom of religion.

Burbank Unified School District (California): Continuing from a challenge that was initiated in September at the Burbank Unified School District, OIF sent a letter of support to the superintendent to retain *Roll of Thunder, Hear My Cry* by Mildred D. Taylor, *To Kill a Mockingbird* by Harper Lee, *The Adventures of Huckleberry Finn* by Mark Twain, *Of Mice and Men* by John Steinbeck, and *The Cay* by Theodore Taylor in the curriculum. The letter stated that "we respectfully suggest that rather than removal of these books from the curriculum, the actual need is for improved teaching and discussion of these works of literature that places their use of racial epithets in context and highlights the harms of racist actions both in the past and in current society."

Despite feedback from the teachers, petitions from the students, and advice from national organizations, the five books were removed from the curriculum. In addition, BUSD has banned the use of, and reading of the n-word in all classes, regardless of context.

Sullivan County Schools (Pennsylvania): During a live-streamed school board meeting, a heated debate arose about an LGBTQIA+ display in the school library, where a school board member criticized the subject and stated that it should be dismantled.

OIF provided support to the school librarian and a letter of support to the superintendent and school board expressing support for the display and her commitment to creating an open, inclusive, and collaborative learning environment.

Lincoln Parish Public Library (Louisiana): After temporarily removing children's books with LGBTQIA+ content from the general shelves of the Lincoln Parish Public Library to satisfy a small group of complaining patrons, the library board [voted to affirmatively reinstate](#) the books for everyone to access.

Allegheny County Jail (Pennsylvania): The Allegheny County Jail in Pittsburgh [reversed](#) a recently implemented policy to prohibit incarcerated people from purchasing physical copies of books or having physical books purchased on their behalf from pre-approved third parties.

Kent State University (Ohio): Two Ohio state representatives [admonished Kent State University](#) for assigning the book *Anime from Akira to Howl's Moving Castle: Experiencing Contemporary Japanese Animation* by Dr. Susan Napier in the school's College Writing I classes.

Member Support - Douglas County Public Library (Nevada)

In addition to providing support to libraries and library workers addressing censorship and violations of users' privacy, OIF and ALA's intellectual freedom groups frequently provide support to library workers defending the profession's core values. This past fall, Library Director Amy Dodson and staff of the Douglas County Public Library faced enormous public criticism after proposing adoption of a diversity statement to its library board via the library's Facebook page.

Public criticism of the post began after the Douglas County Sheriff published a letter stating that library staff should no longer call 911 for help with disturbances because he viewed the library's diversity proposal and its statement of support for the Black Lives Matter movement as a lack of support for the Sheriff's Office. Dodson was ordered to take down the diversity statement.

After the sheriff's letter spurred national media coverage and a number of protests in Douglas County, the library board met to review the situation. OIF provided support to Dodson and her staff, working with ALA President Julius C. Jefferson Jr., the Nevada Library Association, and United for Libraries to [send a letter to the library board](#) outlining the profession's commitment to equity, diversity, and inclusion and backing the proposal of the diversity statement.

Despite the support provided by national and state library associations, the Nevada Attorney General, the ACLU, and local residents, the library board voted to initiate an investigation of Dodson's actions, using $30,000 of the library's budget to pay for the third-party investigation. Throughout the investigation, OIF staff continued to monitor developments and support Dodson and her staff. This past December, the law firm conducting the investigation filed a report concluding that neither the library, its director, or its staff had violated any laws or policies in introducing the diversity statement for the board's consideration.

INITIATIVES

Banned Books Week

Despite restrictions imposed by the ongoing pandemic, this year's Banned Books Week (Sept. 27 - Oct. 3) highlighted activism, embraced creativity, explored technology and virtual outlets, and recognized the voices that others attempted to silence through censorship.

Before the celebration, OIF staff ensured that library workers and readers had the resources needed to participate in Banned Books Week. In September, the Intellectual Freedom Blog published a detailed list of 40 virtual program ideas. Physical and digital products designed by ALA Production Services were available in the ALA Store and ALA Gift Shop. The ALA Connect Live session on intellectual freedom promoted ALA members' access to thousands of searchable public challenge entries. OIF's "Free Downloads" webpage was stocked with activities and shareable statistics and attracted 30,720 pageviews during September. IFRT also created Zoom backgrounds.

To kick-off Banned Books Week, OIF released the list of the top 100 most banned and challenged books of the past decade, as well as an accompanying Buzzfeed quiz. The list was covered by major news outlets, including the Associated Press, CNN, The Guardian, and NBC News.

During the week, there was an array of online opportunities for libraries and readers, including the Dear Banned Author letter-writing campaign, a themed week of #BannedBooksWeek in Action, and videos of read-outs, watch parties, and livestreams with banned author Alex Gino (organized by the Banned Books Week Coalition) and documentary director Cody Meirick. GNCRT, IFRT, and Image Comics also produced a week-long webinar series featuring conversations with creators and librarians.

Libraries celebrated throughout the week online by creating powerful videos, hosting virtual programs such as bingo and trivia, showcasing fiery displays, posting on social media, creating virtual Bitmoji libraries, and streaming webinars. This year's theme — "Censorship is a Dead End. Find Your Freedom to Read" — inspired creative activities, such as digital escape rooms, scavenger hunts, and even outdoor physical mazes.

ALA extended the reach of Banned Books Week by collaborating with other organizations, including Little Free Libraries, American Booksellers Association, SAGE Publishing, Kouvenda Media, City Lit Theater, and Amnesty International USA. The office continually works closely with members of the Banned Books Week Coalition — an international alliance of diverse organizations joined by a commitment to increase awareness of the annual celebration of the freedom to read — to support one another's work.

This engagement continues to highlight the work of libraries and the association, and makes Banned Books Week an ever-present staple in critical First Amendment discussions. Planning for Banned Books Week 2021 is underway, and the IFC provides helpful feedback on artwork and messaging.

IFC RESOLUTIONS, GUIDELINES, Q&As, STATEMENTS, AND WORKING GROUPS

The Intellectual Freedom Committee continues to respond to new and ongoing threats to intellectual freedom and user privacy by updating and revising resources offering guidance to library workers.

Library Privacy Guidelines and Checklists

The IFC Privacy Subcommittee is reviewing its series of privacy guidelines and checklists. The subcommittee plans to update all of these resources by ALA Annual Conference 2021.

The Privacy Subcommittee recently revised and the IFC approved "Library Privacy Guidelines for Students in K-12 Schools" and "Library Privacy Checklist for Vendors." These resources are included in this report as information items.

Privacy Town Hall

The Privacy Subcommittee hosted a privacy town hall, "Surveillance in Academic Libraries?! A Search for Better Ideas," on December 1. The town hall provided a forum to discuss recent proposals to surveil library users for security purposes and to broker patron data to secure lower prices on subscription resources. Privacy Subcommittee member Michelle Gibeault moderated the program, which featured information security engineer Roy Hatcher. Hatcher provided an analysis of the proposal and discussed how libraries can work with information security to protect user privacy.

Access to Digital Resources and Services Q&A

The IFC created this set of questions and answers to clarify the implications and applications of "Access to Digital Resources and Services: An Interpretation of the *Library Bill of Rights*," last revised on June 25, 2019. This Q&A was created in 1997 by the IFC, and it was last revised in 2010. This newest revised resource is divided into four sections: Rationale for Digital Access, Rights of Users, Equity of Access for Users, and Selection and Management Issues. It answers questions such as "What is the library's role in facilitating freedom of expression through digital resources and services?" and "Does my library have to provide digital material on all subjects, for all users, even if those users are not part of the library or the material does not meet the library's collection development policies?"

The IFC voted to approve the revised "Access to Digital Resources and Services Q&A" on November 16, 2020. The Q&A is available on the [ALA website](#) and is included in this report as an information item.

Executive Order on Combating Race and Sex Stereotyping

On September 22, the White House issued its Executive Order On Combating Race And Sex Stereotyping, prohibiting federal employees, contractors, and grant recipients from discussing or considering concepts such as critical race theory and white privilege and discouraging diversity education and training.

In response, the IFC created a statement for the ALA Executive Board's consideration that opposes the order and rejects the patently false and malicious claim that diversity training — which is aimed at fostering a more equitable and just workplace and dismantling systemic racism and sexism — reflects a "Marxist doctrine" that is itself racist and sexist.

"ALA Statement on Executive Order on Combating Race and Sex Stereotyping" [was released](#) by the Executive Board on October 29, 2020, and in part states, "We are painfully aware that libraries and the profession of librarianship have been—and still are—complicit in systems that oppress, exclude, and harm Black people, indigenous people, and people of color, and deny equal opportunity to women. We assert that a commitment to learn from the painful and brutal legacies of our history is essential to the fulfillment of our promise as a country of equal rights and opportunities."

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

In compliance with the mandate contained in the Resolution on Forming a Working Group to Align Vendor Privacy Policies with ALA Policies and Ethics (CD#19.5) adopted by the ALA Council during Midwinter 2020, the Intellectual Freedom Committee and its Privacy Subcommittee has formed the Working Group to Align Vendor Privacy Policies with ALA Policies and Ethics. The working group includes library workers, as well as representatives from OverDrive, Ex Libris, Cengage, EBSCO, and OCLC. The original timeline outlined in the resolution was to complete a study of current vendor privacy policies and identify key issues within twelve months of the passing of the resolution. The pandemic has delayed this goal.

The working group held its first meeting on January 4. It reviewed the working group's charge and goals, and began to define privacy, study privacy policies, and identify key issues. The working group plans to complete the task of completing a study of current vendor privacy policies and identifying key issues within the next twelve months.

Social Justice and Intellectual Freedom

During its monthly meetings, the IFC has discussed the intersection of social justice and intellectual freedom. The committee is forming a working group with confirmed representatives from the IFC and COPE and is identifying potential representatives from groups connected to ODLOS. The purpose of the working group is to develop messaging and a framework that proactively demonstrates the interdependence of intellectual freedom and social justice.

IFC Programming Working Group

The IFC Programming Working Group has submitted three proposals for consideration at the 2021 ALA Annual Conference. The proposed programs cover topics such as social justice, broadband access, free speech in the workplace, and the First Amendment.

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,

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Library Privacy Guidelines for Students in K-12 Schools

Introduction

Libraries face a number of challenges in protecting the privacy of users, especially students in elementary, middle, and high schools. School libraries offer print, media, and online content to meet students' educational and research needs as well as to nurture their intellectual curiosity and development. Students' use of library resources is also incorporated into classroom activities, learning outcomes, and assessment.

School libraries are typically integrated into their district's administrative and technology infrastructures. Depending on district administration and outside cooperative technology or vendor agreements, school libraries have greater or lesser degrees of autonomy. A lack of autonomy may make it difficult for librarians to implement policies and procedures to protect student privacy in regard to the use of library systems, applications, and collections. In addition, state and federal laws regarding library records, educational records (e.g., the Family Educational Rights and Privacy Act - FERPA), and the online activities of minors (e.g., the Child Online Privacy Protection Act - COPPA) have both positive and negative impacts on the privacy rights of students. For example, FERPA establishes explicit rights to privacy for students' and minors' educational records but at the same time grants school officials with "legitimate educational interest" and parents access to, and oversight over, student records that weakens these privacy rights.

The American Library Association (ALA) issues these guidelines to provide school libraries with information about appropriate data management and security practices in respect to student use of library collections and resources in order to strengthen student privacy protections.

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 obligation, expressed in the ALA *Code of Ethics*, to preserve users' right to privacy. The ALA *Library Bill of Rights* also states that all users, regardless of age, "possess a right to privacy and confidentiality in their library use." Librarians and libraries may also have a statutory or regulatory obligation to protect library users' personally identifiable information and data from unauthorized disclosure and use.

Students' and minors' First Amendment rights to free inquiry and privacy must be balanced against both the educational needs of the school and the rights of the parents. As students and minors mature, it is increasingly important that they are provided with opportunities to exercise their curiosity and develop their intellect free from the chilling effects of surveillance by educators, peers, parents, or commercial interests. As students begin to participate more fully in

the online world, they must develop an appreciation for their own privacy and a corresponding respect for the privacy of others.

Clear Privacy Policies

It is important for libraries to develop privacy policies for student use of library resources that are adopted by both the library and the school's policy-making body. Students should be notified about library privacy policies when borrowing materials or accessing resources for the first time and as appropriate when there is a change in services, policies, or access. Library privacy policies should be made easily available and understandable to students in an age-appropriate manner. Safeguarding user privacy requires that staff keep all in-library use and reference questions confidential and assure that there is no monitoring by staff or peers of what students are reading, viewing, or researching while in the library. The same confidentiality should be extended when students are using eBooks and online subscription resources. Clear privacy policies should also be factored into vendor negotiations.

Audit

School librarians should conduct regular privacy audits to determine the current threats to student privacy and what protections are already in place. The audit should cover any areas that handles student data, such as the library management system, computer and network use in the library, eBooks and other online content, online software, apps, social media, and other technologies such as scanners/photocopiers and surveillance cameras. The results of the audit can be used to help create or revise privacy policies.

Collection and Retention of User Data

Libraries should limit the amount of personal information collected about students. Libraries should collect the minimum amount of personal information required to provide a service or meet a specific operational need. Libraries should not build services or resources using sensitive personally identifiable information that, if leaked or accessed by an unauthorized party, could prove detrimental to the user's privacy.

Personally identifiable information should not be retained in perpetuity. The library should establish record retention policies specifying how long to retain different types of data and specifying methods for securely destroying data that is no longer needed. Retention policies should also cover archival copies and backups.

Encryption

The use of data encryption helps enhance privacy protection. All online transactions between client applications (staff desktop clients, web browsers, mobile apps, etc.) and server applications should be encrypted. Client applications that do not support encryption (such as staff desktop clients) should employ virtual private network (VPN) technologies. In addition, any

personally identifiable information and student data housed by the library or school off-site (cloud-based storage, tape backups, etc.) should use encrypted storage.

Data Sharing

Library privacy policies should define the conditions under which school library records can be shared with parents or guardians, school staff and teachers, and third-parties, such as service providers.

Federal laws such as FERPA and COPPA, as well as state laws concerning the confidentiality of library and student records, may impact if and how data is shared. Because of the broad leeway FERPA gives schools in using student data for internal educational purposes, librarians need to clearly distinguish among library records, educational records, and administrative records in order to provide explicit privacy rights in accordance with professional ethical obligations.

Agreements between school libraries and online service providers should address appropriate restrictions on the use, aggregation, retention, and dissemination of students' personally identifiable information. Agreements between libraries and service providers should also specify that libraries retain ownership of all data and that the service providers agree to observe the library's privacy policies, data retention policy, and security policies. In the event of a data breach, the following people should be informed promptly: parents or guardians of minor children, users over the ages of 18, and any emancipated minors.

Many service providers have signed the Student Privacy Pledge which indicates a commitment to work in an ongoing fashion to meet and exceed all federal requirements to protect student data. Librarians should make participation in the Student Privacy Pledge a criterion when making purchasing decisions.

In addition, many states are passing legislation that restricts the collection and use of students' data by service providers (e.g. California's Student Online Personal Information Protection Act – SOPIPA). Librarians should only contract with service providers that comply with applicable state laws.

Educational Technology Systems

Primary and secondary schools are adopting learning management systems and other technologies that enable educators to monitor student reading habits (e.g. Did the student access/read the assigned eBook or online text?). Librarians need to advocate for protecting student intellectual freedom and privacy in an age of ubiquitous data logging and surveillance technologies, including learning management systems.

Digital Literacy & Advocacy

School librarians have a responsibility to teach students about their privacy rights, practices they can use to protect themselves, ethical behavior online, and respect for the privacy of others. In addition to educating students, school librarians should become advocates for protecting student privacy and intellectual freedom in the larger school environment. Often school librarians are focused only on user privacy within the library to the detriment of broader privacy issues in their school and district context. Because of their professional training and ethical commitment, librarians are well-equipped to be privacy advocates outside of the school library.

The "Library Privacy Checklist for Students in K-12 Schools" is intended to help library staff take practical steps to implement the principles that are laid out in this guideline. Additional resources can be found on the Choose Privacy Every Day website.

Approved April 2, 2016 by the Intellectual Freedom Committee of the American Library Association; revised December 11, 2020.

Library Privacy Checklist for Vendors

This checklist is intended to help libraries and vendors of all capacities take practical steps to implement the principles that are laid out in the Library Privacy Guidelines for Vendors.

Priority 1 actions all libraries and vendors can take to improve privacy practices. Priority 2 and Priority 3 actions are in addition to Priority 1 and may be more difficult for libraries or vendors to implement depending on their technical expertise, available resources, and organizational structure.

Priority 1 Actions

1. Educate and assist users in managing their privacy when using vendor products and services. Suggested courses of action include:
    1. Recommending settings for personal accounts on vendor websites.
    2. Explaining privacy settings and how to remove the application and any associated stored data.
    3. Explaining how to contact the vendor for additional details or actions as needed.
    4. Describing tradeoffs on features versus privacy.
2. Establish privacy policies that are simple and easy to find.
3. Hold regular staff training on privacy laws and library ethics.
4. Review and follow cybersecurity standards published by organizations such as the National Institute of Standards and Technology on a regular schedule.
5. Consult with legal counsel to ensure compliance with federal and state privacy laws.
6. Vendors should encrypt all user data in transit and at rest.
7. Only collect, process, retain, or disclose user data sufficient for a specific process or task.
8. House all physical user data securely and limit access to only those who are authorized.
9. Establish and refresh policies for how long to retain different types of data and detail what methods to use to securely and frequently destroy data that is no longer needed.
10. Share library privacy practices with vendors during the purchasing process.
11. Vendors should explain their procedures for handling a request from law enforcement and notify libraries when these requests are made.
12. Inquire how a vendor handles data breaches and ensure there is a procedure for notifying users in case of a breach.
13. Vendors should give notification to libraries if the company is sold, providing instructions on how users can delete their data.

Priority 2 Actions

1. Conduct regular privacy audits.
2. Remind users regularly to check their privacy permissions and give them an opportunity to modify settings or continue consent.
3. Include privacy requirements during bidding or purchasing process.

4. Specify in all contracts and agreements with vendors that the library retains ownership of all user data.
5. Include sections in contracts or agreements that include details on the aggregation, retention, and disclosure of user data.
6. Libraries should expect vendors to follow library privacy, data retention, and security policies.
7. Vendors should share data recovery, media recycling, and business continuity plans with libraries.
8. Create procedures for identifying and producing user personally identifiable information upon request.
9. Delete users' personally identifiable information upon request, not just hide it from view.
10. Vendor systems should default to allow users to opt-in to any data collection that is not essential to library operations.
11. Libraries should gain a user's explicit informed consent before utilizing any profiling or customer relationship management tools or non-aggregated data analytics software.
12. Deidentify data used in analytics software by removing personally identifiable information.

Priority 3 Actions

1. Libraries should include easily discoverable links to the privacy policies of the vendors they contract with on their website.
2. Vendors should explain the entire user data lifecycle of their product or service, preferably during the sales process.
3. Vendors should train sales representatives on how to answer privacy and security questions.
4. If a vendor's system integrates with an additional third party, the privacy and security policies in place should ensure confidentiality between the systems.
5. Work with vendors to ensure personally identifiable library user data is deleted from the vendor's systems when not renewing a service or product. Libraries should ask for third-party verification of deletion.

Additional Questions to Consider

- What are the local statutes regarding user/user information use?
- Does the vendor's privacy policy jive with the library's privacy policy?
- Is the vendor's privacy policy explicit on the product portal?
- Can the vendor's privacy policy be shared with the library to publicize for its users?
- User's browsing, borrowing, downloads, notations, group affiliations shall not be shared with any other parties without the specific written consent of the individual user.
- Does the language in the policy/contract/license specifically address other devices and do the terms extend to other devices as well (smartphone apps, tablet, etc.)?

- What is the retention policy of the institution/library, including proxy server collection of IP address access, and what is the retention policy of the vendor?
- Is the language of the policy consistent with the age of the product's intended audience, can the minor user for instance understand the policy?
- Does the language of the policy/contract/license specify that harvested user data should be destroyed and not retained in perpetuity by the vendor?
- In case of data breach, does the language specify that the vendor inform the library as soon as it is aware of the breach?
- How should the library respond in terms of user privacy when a data breach is identified?
- Vendor must give libraries advance notice of any changes to the user privacy policies, at least 30 days to respond.
- Agreements and contracts should be reviewed annually per their individual renewal/ purchase date.

This checklist details the practical steps libraries can take to implement the Library Privacy Guidelines for Vendors. Additional resources can be found on the Choose Privacy Every Day website.

Approved January 21, 2017 by the Intellectual Freedom Committee; revised January 26, 2020 and November 16, 2020.

Access to Digital Resources and Services Q&A

The American Library Association's (ALA) Intellectual Freedom Committee created this set of questions and answers to clarify the implications and applications of "Access to Digital Resources and Services: An Interpretation of the *Library Bill of Rights*."

As library workers, we have a professional obligation to strive for free access to all information resources. However, many of the questions concerning digital information will not have a single answer. ALA recognizes that each library needs to develop policies in keeping with its mission, objectives, and users. Library workers also need to be cognizant of legislation and judicial decisions that may affect implementation of their policies. For additional information, contact the Office for Intellectual Freedom at oif@ala.org.

For the purposes of this Q&A, we define the following:

> Digital access is the ability to fully participate in digital society. This includes access to tools and technologies, such as the internet and computers, that allow for full participation.

> Digital resources are databases, books, journals, newspapers, magazines, archives, theses, conference papers, government papers, research reports, scripts, and monographs in a digital form.

> Digital services refers to the electronic delivery of information including data and content across multiple platforms and devices like web or mobile.

Rationale for Digital Access

1. What is the library's role in facilitating freedom of expression through digital resources and services?

In order to have a functional democracy, we must have informed citizens. Libraries are an essential part of the national information infrastructure, providing people with access and opportunities for participation in the digital environment, especially those who might otherwise be excluded.

2. Why should libraries extend access to digital information resources to minors?

Those libraries with a mission that includes service to minors should make available a full range of information necessary for minors to become critical thinkers and active participants in our democracy. The opportunity to participate responsibly in the digital environment is vital for nurturing the information literacy skills demanded today. Library workers should remember that minors also possess First Amendment rights. Although parents and legal guardians have the right to guide their children's use of and access to digital resources, federal and state legislation as well as institutional policies also impact minors' access to digital information. Libraries should extend as much access as permitted under the law.

Rights of Users

3. Do the policies of ALA regarding intellectual freedom and ethics apply to digital information and services in libraries?

Yes, because information is information regardless of format. Library resources in digital form are increasingly recognized as vital to the provision of information that is the core of the library's role in society.

4. How can libraries help to ensure library user confidentiality in regard to digital information access?

Library workers must be aware of user confidentiality laws applicable to library records for their particular state and community. In accordance with such laws and professional and ethical responsibilities, library workers should routinely review policies and procedures for maintaining the confidentiality of personally identifiable use of library materials, facilities, or services. Electronic records on individual use patterns should be strictly safeguarded. Software and protocols should be designed for the automatic and timely deletion of personal identifiers from the tracking elements within digital resources. System access to computers or other devices also should be designed to eliminate indicators of the research strategy or use patterns of any identifiable user. For example, the efforts of the last user of a terminal or program should not remain on the monitor or be easily retrievable from a buffer or cache by subsequent users. Methods used by libraries or institutions to reserve computer time or monitor use of digital information resources must protect the confidentiality and privacy rights of patrons.

Databases and other digital resources provided by the library should allow anonymous searching and should not require users to reveal personally identifiable information. In contract

negotiations with vendors/network providers/licensors, library workers should ensure that third parties will protect any data and personally identifiable information obtained from users in accordance with all applicable laws, Article III of the *Code of Ethics of the American Library Association*, and Article VII of the *Library Bill of Rights*.

Libraries and those libraries with parent institutions should provide physical environments that facilitate user privacy for accessing digital information. For instance, libraries should consider placement of computers, printers, and devices so that user privacy is enhanced. Computer accessories, such as privacy screens, offer additional protection.

Finally, libraries should be sensitive to the special needs for confidential access to digital information sources by users with disabilities.

5. Our library is just one of many autonomous institutions in a consortium. How can we be sure that our cooperating partners honor the confidentiality of our library users in a shared network environment?

This is a contractual and legal matter. The importance of confidentiality of personally identifiable information about library users transcends individual institutional and type-of-library boundaries. Libraries should establish and regularly review interlibrary and interagency cooperative agreements to ensure clear policies and procedures that obligate all members of a cooperative or all departments and branches within a parent institution to maintain user confidentiality.

6. Why shouldn't parental permission be required for minors to access digital information?

As with any other information format, parents and legal guardians are responsible for guiding their own children's use of digital resources. Library workers may need to help parents understand their options, but should not be in the position of policing and enforcing parental restrictions within the library.

The *Library Bill of Rights* and its various interpretations, including "Access to Library Resources and Services for Minors," and "Minors and Online Activity" and ALA's "Guidelines for Library Policies," clarify the rights of minors to access all library resources and information as an element of their First Amendment rights.

Equity of Access for Users

7. Do libraries need a digital information access use policy? If so, what elements should be considered for inclusion?

Issues associated with access, creation, distribution, retrieval, and archiving of digital information are complex. The Intellectual Freedom Committee strongly recommends that libraries formally adopt and periodically reexamine policies on these issues, so that they align with the mission of their institution, provide equitable access for all users, and are in compliance with the law and professional ethics.

Library policies related to access to digital information should be informed by a library's mission and institutional objectives and be consistent with the Bill of Rights of the U.S. Constitution and ALA's policies and guidelines, including "Economic Barriers to Information Access: An Interpretation of the *Library Bill of Rights*," "Guidelines for Library Policies," "Services to People with Disabilities: An Interpretation of the *Library Bill of Rights*," and "Minors and Online Activity: An Interpretation of the *Library Bill of Rights*."

Reasonable restrictions placed on the time, place, and manner of access should be used only when necessary to achieve library managerial objectives and in the least restrictive manner possible. Libraries should focus on developing policies that ensure broad access to information resources of all kinds. Policies should not limit access to information based on the means of access or the status of the library user.

8. My library recognizes different user groups. Is this a problem?

Libraries may establish distinct user groups. The mission and objectives of some libraries lead them to recognize distinctions between library users. In establishing distinct user groups, the library should not assume the need for different levels of access or restrict access based on origin, age, background, or views.

For example, academic libraries may distinguish between faculty and students, while public libraries may distinguish between residents and non-residents. School library media centers embrace curricular support as their primary mission; some have further expanded access to their collections to include use by parents and community members. Special libraries may vary their access policies, depending on the definition of their primary clientele.

9. Must our library make provisions for users with disabilities to access digital information?

Yes. The Americans with Disabilities Act and other federal and state laws forbid providers of public services, whether publicly or privately governed, from discriminating against individuals with disabilities. All library information services, including access to digital information, should be accessible to users regardless of disability.

As stated in "Services to People with Disabilities: An Interpretation of the *Library Bill of Rights*," libraries and library workers should educate themselves about technical and legal standards for digital accessibility, and manage staffing and resources to provide equal access. Many methods are available and under development to make digital information universally accessible, including adaptive devices, software, and human assistance. Libraries, in the design and provision of their digital services, should make these resources and services accessible to meet the needs of people with disabilities.

10. "Economic Barriers to Information Access: An Interpretation of the *Library Bill of Rights*" states "All resources provided directly or indirectly by the library, regardless of format or method of delivery, should be readily and equitably accessible to all library users." Does this mean that exactly the same service must be available to anyone who wants to use the library?

No. It means that library workers should provide reasonable accommodations to accessing digital information and services, such as providing adaptive technology or alternate formats, and should do so in a timely manner. For example, if a library has determined that all students should have access to interlibrary loan services free of charge, then a student with a disability should not be charged for needing interlibrary loan material in a special format. It also means that arbitrary distinctions, such as age or the presumed ability to use technology, should not be used as the basis for restricting access.

11. Does the provision of information services include printouts?

Whenever possible, all services should be without fees. In any case, libraries should recognize that fees create a barrier to access and should take steps to minimize or eliminate this obstacle. Applied to the digital environment, this means that some libraries will provide the text on the screen at no charge, but might charge for printouts. In charging fees for any service, libraries should consider waiving or reducing the cost, at its discretion, based on a user's ability to pay.

12. If my library has no major support from public funds, can we then charge fees?

Yes, libraries that do not receive substantial public funding may find it necessary to charge fees in order to provide services to users. However, ALA encourages libraries to avoid charging fees

as they may create a barrier to equitable access to information and ideas. For more information, see "Economic Barriers to Information Access: An Interpretation of the *Library Bill of Rights*."

13. What do you do if one person monopolizes public computer stations or other library technologies?

Libraries should address this issue in their technology use policies. While time, place, and manner restrictions to use can apply, they should be spelled out in the library's computer use policies. Use policies should be applicable to all users regardless of origin, age, background or views. They should be written and posted to ensure equitable access for all users. For additional information, see "Guidelines for the Development of Policies and Procedures Regarding User Behavior and Library Usage."

Selection and Management Issues

14. How does providing access to global information and services on the open internet differ from selecting and purchasing material for an individual library or providing access to curated online information resources?

Providing access to curated online resources is different from providing internet access. When libraries provide internet access, they provide a means for people to access information and resources that are created, maintained, and made available outside of the library's control. Library workers are not making selection decisions about the information that becomes available by providing internet access; instead, they allow users to choose for themselves which online information and resources to access. The selection process, by default, involves decision making about and curation of resources which might be purchased and provided at an individual library.

15. How can library workers use their expertise to help users locate, understand, and use digital resources?

Library workers who have the necessary skills and education should play a proactive role in guiding users to the most effective information resources. Their guidance should foster digital literacy and enhance the ability to locate, evaluate, create and communicate digital content. For example, library websites are one starting point for accessing the vast resources of the internet. All libraries are encouraged to develop websites, curating links to internet resources and tools

developed in the library to meet the information needs of their users. These resources should be made available within the existing mission, collection development policy, and selection criteria of the library. For additional information, see "Education and Information Literacy: An Interpretation of the *Library Bill of Rights*."

16. In order to protect a library's users or reflect community values, can the library deny access to constitutionally protected speech on the internet?

No. People have a right to receive constitutionally protected speech and any restriction of those rights imposed by a library violates the U.S. Constitution. Only a court of law can judge speech to be outside of the protection of the First Amendment.

17. Can my library use software that filters or blocks access to digital information resources on the internet?

Libraries and library workers should not deny access to constitutionally protected information. "Access to Digital Resources and Services: An Interpretation of the *Library Bill of Rights*" states, "If a library uses a technological measure that blocks access to information, it should be set at the least restrictive level in order to minimize the blocking of constitutionally protected speech."

The negative effects of content filters on internet access in public libraries and schools are demonstrable and documented. Consequently, consistent with previous resolutions, the American Library Association cannot recommend filtering. However, the ALA recognizes that local libraries and schools are governed by local decision makers and local considerations and often must rely on federal or state funding for computers and internet access. Because adults and minors have First Amendment rights, libraries and schools that choose to use content filters should implement policies and procedures that mitigate the negative effects of filtering to the greatest extent possible. The process should encourage and allow users to ask for filtered websites and content to be unblocked, with minimal delay and due respect for user privacy.

The use of filters presents a number of complex legal, technical, and ethical issues. For discussion of these issues, library workers should carefully review the information in "Internet Filtering: An Interpretation of the *Library Bill of Rights*" and on the Office for Intellectual Freedom's "Filters and Filtering" website.

18. Why do libraries have an obligation to provide government information in digital format?

Most government information and forms are only offered online or in digital formats. Libraries, as a part of the national information infrastructure, should ensure that users can access government information in these formats. Libraries have a particular obligation to provide library users — especially those who might otherwise be excluded — with information necessary for participation in our society and our representative system of government.

19. What is the library's role in the preservation of information in digital formats?

The digital medium is ephemeral and information may disappear without efforts to save it. Libraries may need to preserve and archive digital information critical to their mission in order to ensure continued access. The types of information to be preserved, the scope, and retention period for any preserved information would vary depending on the library type and policies of each library. Federal depository libraries and state or local government document repositories may have a special responsibility to preserve government information.

20. Do libraries have a role in supporting the creation and distribution of digital information by users?

All libraries should support their users in the creation and distribution of digital information. The type of support will vary depending on the type of library. Academic and school libraries support their users in the creation, storage, and distribution of content as part of their curricula. Public libraries can support the creation and distribution of digital content through programs and other facilitated projects.

All libraries should have policies that define the extent of support while still providing access for users to create personal digital content.

21. Does my library have to provide digital material on all subjects, for all users, even if those users are not part of the library or the material does not meet the library's collection development policies?

No. The institution's decisions about digital resources, like those of other formats, will be based on its mission and objectives as well as its selection policy. The "Selection & Reconsideration Policy Toolkit for Public, School, & Academic Libraries" can assist libraries in the development of a selection and reconsideration policy. Selection of digital resources, like those of other formats, is based on selection policy criteria and fulfilling a collection (or user) need, taking economic resources into consideration. For additional explanation of this issue, library workers should refer to "Diverse Collections: An Interpretation of the *Library Bill of Rights*."

22. How should libraries address vendors, network providers, and licensors who attempt to limit or edit access to digital information?

When purchasing digital information resources, library workers should conduct contract negotiations with vendors, network providers, and licensors to ensure the least restrictive access in current and future products.

23. How can the library avoid becoming a game room and still provide access to digital resources?

Just as libraries do not make value judgments on print materials in their collections, so libraries should not judge games as having less value than other digital content or resources. The library can develop policies that address time, place, or manner restrictions when determining the periods of use of digital technology and resources. For additional information, see "Guidelines for the Development of Policies and Procedures Regarding User Behavior and Library Usage." Policies can allow for more equitable access to digital content without censoring specific types of digital content.

24. Do copyright laws apply to digital information?

Library workers have professional and ethical responsibilities to keep abreast of copyright law and fair use guidelines. This responsibility applies to the library's own online publications, contractual obligations with authors and publishers, and informing library users of copyright laws that apply to their use of digital information. For more information, see "Copyright for Libraries: General Information" and "Copyright: An Interpretation of the *Code of Ethics*."

25. How should library workers respond to community complaints about digital resources?

Complaints about digital resources, like non-digital resources, should be received respectfully. Many complaints can be resolved with a respectful conversation.

Every library should have a request for reconsideration policy and follow it. The principles of these policies also apply to digital resources. Libraries can modify reconsideration policies to be applicable to digital resources. Information on reconsideration policies can be found in "Selection and Reconsideration Policy Toolkit for Public, School, and Academic Libraries" and the *Intellectual Freedom Manual*.

Challenges to digital resources, like those of any other library resource, program, or service, should be reported to the Office for Intellectual Freedom.

The Intellectual Freedom Committee compiled this Q&A following the initial adoption on January 24, 1996 (amended January 19, 2005) by the ALA Council of "Access to Electronic Information, Services and Networks: An Interpretation of the *Library Bill of Rights.*" The interpretation was later amended on July 15, 2009 with the new title "Access to Digital Information, Services, and Networks," and again June 25, 2019 under the current title "Access to Digital Resources and Services: An Interpretation of the *Library Bill of Rights*."

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