

# **GUIDELINES FOR THE DEVELOPMENT AND IMPLEMENTATION OF POLICIES, REGULATIONS AND PROCEDURES AFFECTING ACCESS TO LIBRARY MATERIALS, SERVICES AND FACILITIES**

The American Library Association has adopted the *Library Bill of Rights* and Interpretations of the *Library Bill of Rights* to provide library governing authorities, librarians and other library staff and library users with guidelines on how constitutional principles apply to libraries in the United States of America.

Publicly supported libraries exist within the context of a body of law derived from the United States Constitution and appropriate state constitutions, defined by statute, and implemented by regulations, policies and procedures established by their governing bodies and administrations. These regulations, policies and procedures establish the mission of the library, define its functions, services and operations and ascertain the rights and responsibilities of the individuals served by the library.

Publicly supported library service is based upon the First Amendment right of free expression. The publicly supported library is a governmental entity that provides free, equal, and equitable access to information for all people of the community it serves. When this purpose is confirmed in policies and practices, the library is a designated limited public forum for access to information. When library policies or practices make meeting rooms, exhibit spaces and/or bulletin boards available for public use, these spaces are designated as limited public forums for the exchange of information.

Since the *Library Bill of Rights* “affirms that all libraries are forums for information and ideas,” libraries that are not publicly supported are encouraged to observe these guidelines as they develop policies, regulations and procedures.

Libraries adopt administrative policies and procedures regulating the organization and use of library materials, services and facilities. These policies and procedures affect access and may have the effect of restricting, denying or creating barriers to access to the library as a public forum, including the library's resources, facilities and services. Library policies and procedures that impinge upon First Amendment rights are subject to a higher standard of review than may be required in the policies of other public services and facilities.

Policies, procedures or regulations that may result in denying, restricting or creating physical or economic barriers to access to the library's public forum must be based on a compelling government interest. However, library governing authorities may place reasonable and narrowly drawn restrictions on the time, place or manner of access to library resources, services or facilities, provided that such restrictions are not based upon arbitrary distinctions between individuals or classes of individuals.

## **GUIDELINES**

The American Library Association's Intellectual Freedom Committee recommends that publicly supported libraries use the following guidelines, based on constitutional principles, to develop policies, regulations, and procedures:

All library policies, regulations, and procedures should be carefully examined to determine if they may result in denying, restricting or creating barriers to access. If they may result in such restrictions, they:

1. should be developed and implemented within the legal framework that applies to the library. This includes: the United States Constitution, including the First and Fourteenth Amendments, due process,

- and equal and equitable treatment under the law; the applicable state constitution; federal and state civil rights legislation; all other applicable federal, state and local legislation; and applicable case law;
2. should cite statutes or ordinances upon which the authority to make that policy is based, when appropriate;
  3. should be developed and implemented within the framework of the Library Bill of Rights and its Interpretations;
  4. should be based upon the library's mission and objectives;
  5. should only impose restrictions on the access to, or use of library resources, services or facilities when those restrictions are necessary to achieve the library's mission and objectives;
  6. should narrowly tailor prohibitions or restrictions, in the rare instances when they are required, so they are not more restrictive than needed to serve their objectives;
  7. should attempt to balance competing interests and avoid favoring the majority at the expense of individual rights, or allowing individual users' rights to interfere materially with the majority's rights to free, equal, and equitable access to library resources, services and facilities;
  8. should avoid arbitrary distinctions between individuals or classes of users, and should not have the effect of denying or abridging a person's right to use library resources, services or facilities based upon arbitrary distinctions such as origin, age, background or views;

In the *Library Bill of Rights* and all of its Interpretations, it is intended that “origin” encompasses all the characteristics of individuals that are inherent in the circumstances of their birth; “age” encompasses all the characteristics of individuals that are inherent in their levels of development and maturity; “background” encompasses all the characteristics of individuals that are a result of their life experiences; and “views” encompasses all the opinions and beliefs held and expressed by individuals;

9. should not target specific users or groups of users based upon an assumption or expectation that such users might engage in behavior that will materially interfere with the achievement of substantial library objectives;
10. must be clearly stated so that a reasonably intelligent person will have fair warning of what is expected;
11. must provide a means of appeal;
12. must be reviewed regularly by the library's governing authority and by its legal counsel.
13. must be communicated clearly and made available in an effective manner to all library users;
14. must be enforced evenhandedly, and not in a manner intended to benefit or disfavor any person or group in an arbitrary or capricious manner;

Libraries should develop an ongoing staff training program designed to foster the understanding of the legal framework and principles underlying library policies and to assist staff in gaining the skill and ability to respond to potentially difficult circumstances in a timely, direct and open manner. This program should include training to develop empathy and understanding of the social and economic problems of some library users;

15. should, if reasonably possible, provide adequate alternative means of access to information for those whose behavior results in the denial or restriction of access to any library resource, service or facility.

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## **GLOSSARY**

Below are definitions of some of the terms used in the Guidelines to assist in understanding the applicable standards:

### **arbitrary distinctions:**

inappropriate categorizations of persons, classes of persons, conduct, or things based upon criteria irrelevant to the purpose for which the distinctions are made. For example, a rule intended to regulate the length of time an item may be borrowed should not be based on an irrelevant consideration (arbitrary distinction) such as a personal characteristic of the borrower (height or age.)

### **compelling government interest:**

a term used by courts when assessing the burden of government regulation or action upon the exercise of a fundamental right such as freedom of speech. For such a rule to withstand constitutional challenge, the government must show more than a merely important reason for the rule. The reason for the rule must be compelling; that is, it must be so important that it outweighs even the most valued and basic freedom it negatively impacts.

### **limited public forum:**

a public place purposefully designated by the government, or established through tradition, as a place dedicated to a particular type of expression. As in a public forum, only reasonable content-neutral time, place, and manner restrictions on speech within the scope of the designated purpose of the forum may be imposed. The government may exclude entire categories of speech that do not fall within the designated purpose of the forum, but may not discriminate against particular viewpoints on subjects appropriate to the forum.

### **materially interfere:**

a term often used by courts to describe the necessary level of intrusion, inconvenience or disruption of an accepted or protected activity caused by certain conduct in order to justify regulation of that conduct. A material interference is much more than mere annoyance—it must be an actual obstacle to the exercise of a right.

### **substantial objectives:**

goals related to the fundamental mission of a government institution, and not merely incidental in the performance of that mission. Providing free and unrestricted access to a broad selection of materials representing various points of view is a substantial objective of a public library.