

# Freedom of Expression and Inquiry

# 22

Free access to ideas and freedom of expression are bedrock principles of this country. These principles must be upheld for democracy to survive and thrive. Public libraries are institutions dedicated to the ideal of freedom of expression and inquiry. The public library is the provider of access for *all* citizens to the full range of ideas, including controversial or unpopular ideas.

If we all knew for sure what the right answers were for important questions, there would be no controversies and no need to foster freedoms of inquiry and expression. But, because we cannot know for sure, our survival and progress as a culture and as a species require that we actively promote wide-ranging inquiry and the freest possible expression of ideas so that we may correct errors and continue to progress toward better answers. This requires that your library, within the limits imposed by budget, time, and space, seeks to represent the widest range of materials and to provide unrestricted access to electronic resources—so that inquiry is encouraged and creativity stimulated.

In Wisconsin, as in most states, citizen boards govern public libraries. Citizen governance partially isolates the operation of the library from political pressure—an important concern especially in the development of your library’s collection and policies. Citizen control is designed to help your library support the ideals of freedom of expression and inquiry—free from partisan and political pressure.

The federal and state Constitutions support the ideals of freedom of expression and inquiry, as do the Wisconsin statutes. The very beginning of [Chapter 43](#) (Wisconsin’s library law) says: “The legislature recognizes: (a) The importance of free access to knowledge, information and diversity of ideas by all residents of this state; (b) The critical role played by public, school, special and academic libraries in providing that access; (c) The major educational, cultural and economic asset that is represented in the collective knowledge and information resources of the state’s libraries; (d) The importance of public libraries to the democratic process.”

## Collection Development Policy

Every public library should have a collection development policy that supports the ideals of freedom of expression and inquiry. A sound collection development policy assures the continuous growth of a collection appropriate to your library’s defined mission and goals, while recognizing the cultural diversity and pluralistic nature of your community. It is recommended that, at a minimum, the policy cover the following points:

- purpose and scope of collection (separately defined for the adult and children’s sections)
- types of materials to be purchased

### In This Trustee Essential

- How the public library promotes freedom of expression and inquiry
- Library board-approved policies that help protect intellectual freedom

- staff responsibility for selection; use of professional selection tools
- basis and method of withdrawing and disposing of materials
- acceptance of gift materials (usually with the understanding that the same selection standards will be applied to gift materials as to those purchased and that staff will have discretion in judging what gift materials will actually be added to the collection)
- affirmations of intellectual freedom, such as an endorsement of the Library Bill of Rights at: [www.ala.org/advocacy/intfreedom/librarybill](http://www.ala.org/advocacy/intfreedom/librarybill) and the Freedom to Read Statement issued jointly by the American Library Association and Association of American Publishers available at: [www.ala.org/advocacy/intfreedom/statementspols/freedomreadstatement](http://www.ala.org/advocacy/intfreedom/statementspols/freedomreadstatement)

See *Trustee Essential #10: Developing Essential Library Policies* for guidelines on the process to follow when developing library policies. The collection development policy should include a procedure to follow if materials in the library collection are challenged. (See *Trustee Essential #23: Dealing with Challenges to Library Materials and Policies*.)

## Internet Access Policy

The Internet brings a wealth of information to even the smallest library. It is recommended that every library develop an Internet “acceptable use policy.” The following questions may help your library in developing an “acceptable use policy.”

- Can children use the Internet independently, or do they need parental supervision or permission?
- Will the library adopt a code of conduct that must be signed by a parent and child before the child accesses the Internet?
- Will the library adopt a clear Internet use policy?
- Will users have to sign up to use Internet terminals?
- Will there be time limits on the use of Internet terminals?
- How does the library staff handle being a “go to” place to help troubleshoot devices?
- Will the results of users’ research be visible to other users or will the library install privacy screens or other means to restrict public viewing?
- What does the library do when a user is discovered using an Internet terminal for illegal or improper purposes?
- How does the library handle user and staff complaints about others gaining access to illegal or objectionable sites?
- How will the library handle false accusations about illegal or improper use?

- How will the library handle access to functions such as social media sites, peer-to-peer file sharing sites and email?
- How do the library and its governing board transmit concerns about Internet access to its funding authority?
- How will the library seek legal review of its Internet policy, both from its own legal counsel and from other legal experts?

Sample Internet use policies are available from the Wisconsin Public Library Policy Resources Page at <http://dpi.wi.gov/pld/boards-directors/policy-resources>.

## Internet Filtering

Library boards should be aware that certain Internet filtering policies have been found by federal courts to violate First Amendment guarantees. On the other hand, Congress passed the Children's Internet Protection Act (or CIPA) requiring library filtering in order to qualify for certain uses of federal aid (such as E-rate funding). That law has been challenged on First Amendment grounds. Libraries need to stay informed as cases are decided and as possible new legislation develops. See below for resources to help you stay informed about these issues.

## Meeting Room, Exhibit, and Display Policies

Public library meeting room and display policies should also support the ideals of freedom of expression and inquiry. In fact, federal courts have ruled that certain public library meeting room and display policies are contrary to the First Amendment.

In an April 2000 case, a federal court ruled that a Wisconsin library violated an individual's First Amendment rights when it refused him permission to use the public library's meeting room for a program about creationism. The library's policy prohibited use of the meeting room for religious services, religious instruction, and partisan political meetings.

The Federal District judge ruled that the library's policies and practices permitting the use of the meeting room for various groups had created a "designated public forum." In a designated public forum, content-based restrictions on speech are permissible only if they are the least restrictive means to a compelling government interest. The judge ruled that the city failed to show a compelling government interest in excluding the plaintiff from use of the meeting room.

"It may be that the exclusion of partisan political meetings and religious services or instruction is based on the library's desire to avoid controversy," the judge said. "However, the avoidance of controversy is not a valid ground for restricting speech in a public forum."

Reasonable regulations on time, place, and manner of speech are permissible in a designated public forum. For example, the judge implied that the library's prohibition on the use of the meeting room for regular meetings of clubs and other organizations was probably a constitutional regulation because it was intended to

make the room available to a wide variety of organizations. The judge also suggested that the policy excluding use of the meeting room for “commercial sales or presentations promoting specific companies or products” was also constitutionally acceptable.

Library exhibit and display policies must conform to the same basic constitutional principles that apply to meeting room policies. Libraries may wish to review their meeting room, exhibit, and display policies for conformance with constitutional requirements. Sample meeting room and exhibit and display policies are available from the Wisconsin Public Library Policy Resources page at <http://dpi.wi.gov/pld/boards-directors/policy-resources>.

## Staff Development and Public Information

One of the keys to staff and community support for the principles of intellectual freedom is continuing education and public information on this topic. The better informed all parties are regarding the importance of freedom of expression and inquiry, and related library policies and practices, the less likely it is that your library will be required to defend the library’s collection or policies.

## Discussion Questions

1. How does your library support the democratic ideal of a well-informed citizenry?
2. Does citizen (library board) control of the library help your library support the ideals of freedom of expression and inquiry? How else does citizen board control benefit your library?
3. Can the use of library Internet filters be consistent with the ideals of freedom of expression and inquiry, and the First Amendment? Why or why not?

## Sources of Additional Information

- *Intellectual Freedom Manual*, latest edition, published by the Office for Intellectual Freedom, American Library Association
- Wisconsin Public Library Policy Resources page at <http://dpi.wi.gov/pld/boards-directors/policy-resources>
- Your library system staff (See *Trustee Tool B: Library System Map and Contact Information*.)
- Division for Libraries and Technology staff (See *Trustee Tool C: Division for Libraries and Technology Contact Information*.)

*Trustee Essentials: A Handbook for Wisconsin Public Library Trustees* was prepared by the DLT with the assistance of the Trustee Handbook Revision Task Force.

© 2002, 2012, 2015, 2016 Wisconsin Department of Public Instruction. Duplication and distribution for not-for-profit purposes are permitted with this copyright notice. This publication is also available online at <http://dpi.wi.gov/pld/boards-directors/trustee-essentials-handbook>