

Introduction to Intellectual Freedom for Libraries 2015 Update

Presented by Mary Minow
J.D., A.M.L.S



Tuesday, February 17, 2015



Library shelves

- Books (schools and public libraries)
- Internet

Responding to challenges

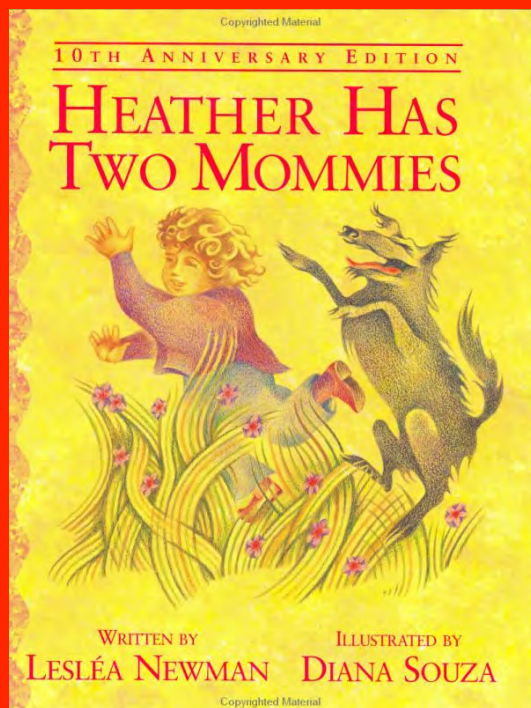
- American Library Association

Social Media update

- Public and staff postings

Legal information, not legal advice

Books and physical materials



A parent asks you to remove a book from the shelf because she feels it could harm her children.

Who decides?



Your library has too many liberal magazines and not enough conservative ones!

Selection v. Removal



Librarian doesn't buy book or magazine

No judicial review

Selection v. Removal



**Removal by the government
may invite judicial review**

Selection v. Removal



**Removal by the government
may invite judicial review**

Who Decides What Goes in Library Collection?



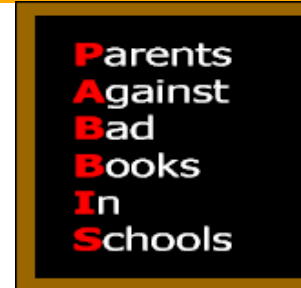
Author



Librarians



Library Board



Legislator



Judge

**Law, Cases
Question is Always**

Rules and Regulations

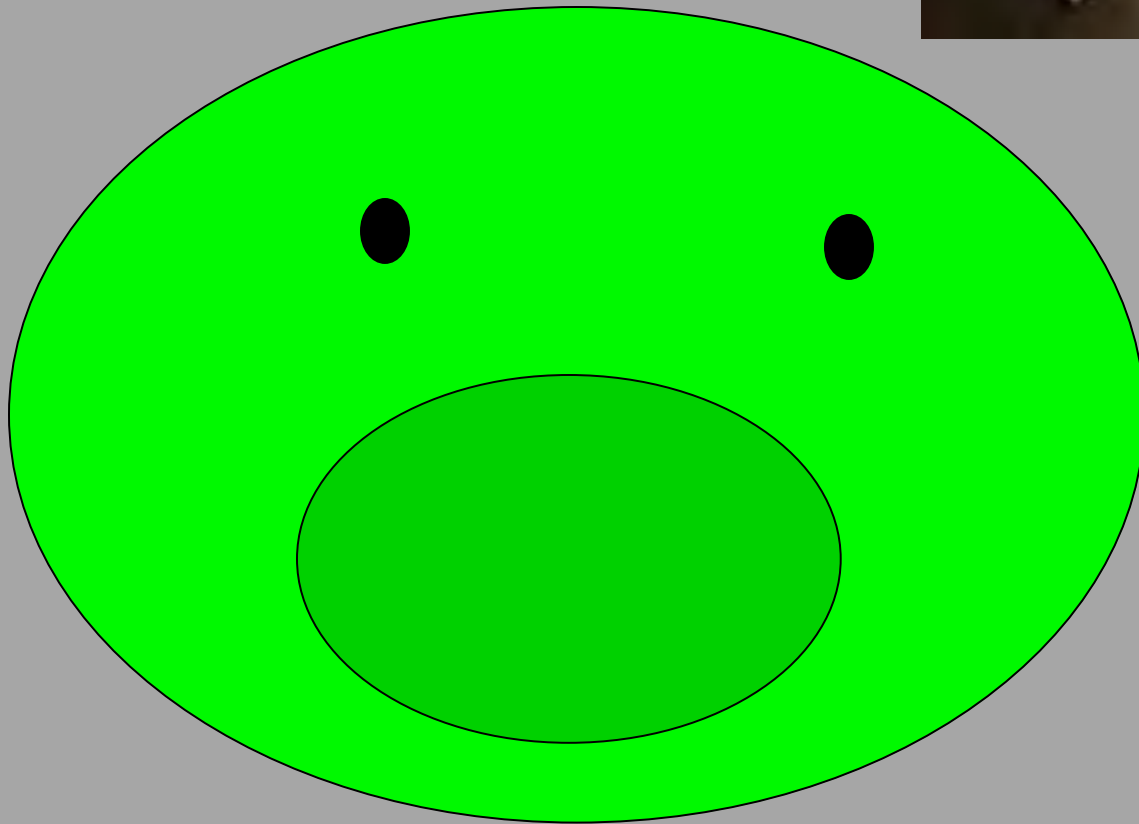


Will Library Win in Court?

**Library
Restriction
on Speech**

Or will Patron win?

Rules and Regulations



Legal Definitions

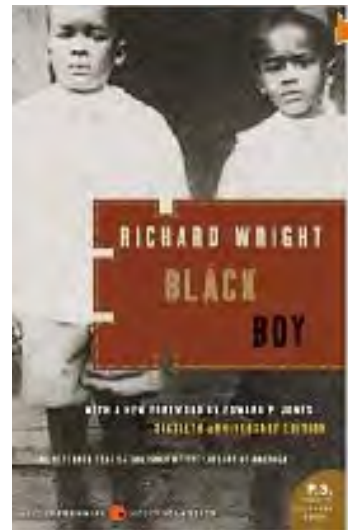
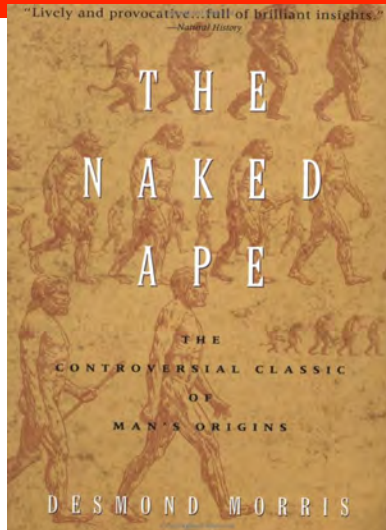


***Speech protected under
umbrella of First
Amendment:***



Violent	Inappropriate
Disgusting	May lead to illegal behavior
Profane	as well as
Hateful	Beautiful
Indecent	Poetic

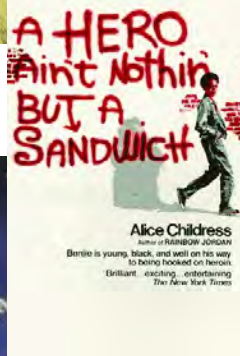
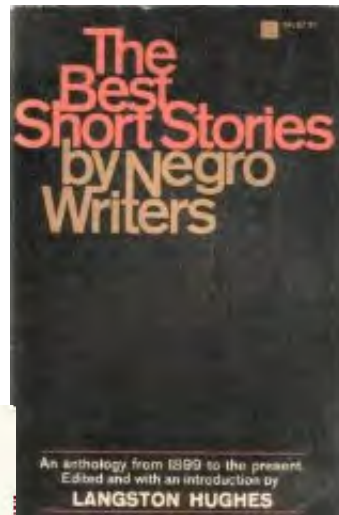
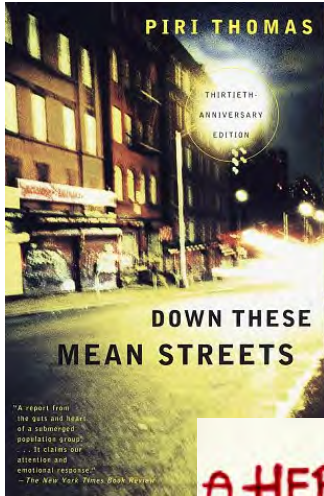
Court Case: Can a library legally remove books based on viewpoint?



Student sued when school board removed books as “anti-American, anti-Christian, anti-Semitic, and just plain filthy”

Bd. of Ed. v. Pico, 457 U.S. 853 (1982)

No. U.S. Supreme Court

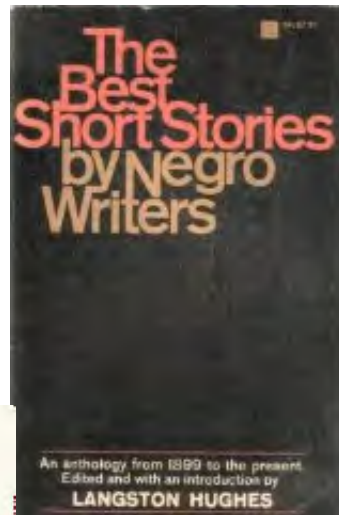
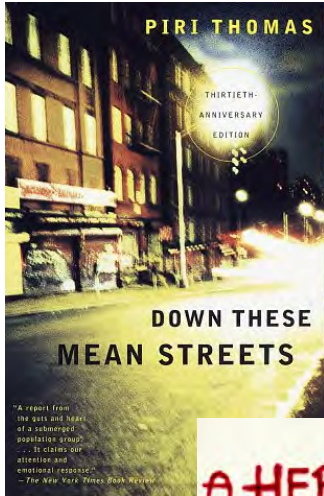


Schools *in loco parentis* and set curriculum, but cannot remove books unless educationally unsuitable or pervasively vulgar.

Settlement: Books returned to shelves.

Bd. of Ed. v. Pico, 457 U.S. 853 (1982) is cited for this proposition. The decision was a plurality, not a majority. Lower court decisions citing it are controlling.

No. U.S. Supreme Court



Schools *in loco parentis* and set curriculum, but cannot remove books unless educationally unsuitable or pervasively vulgar.

Settlement: Books returned to shelves.

Public library, place of free-wheeling inquiry, put the books on display

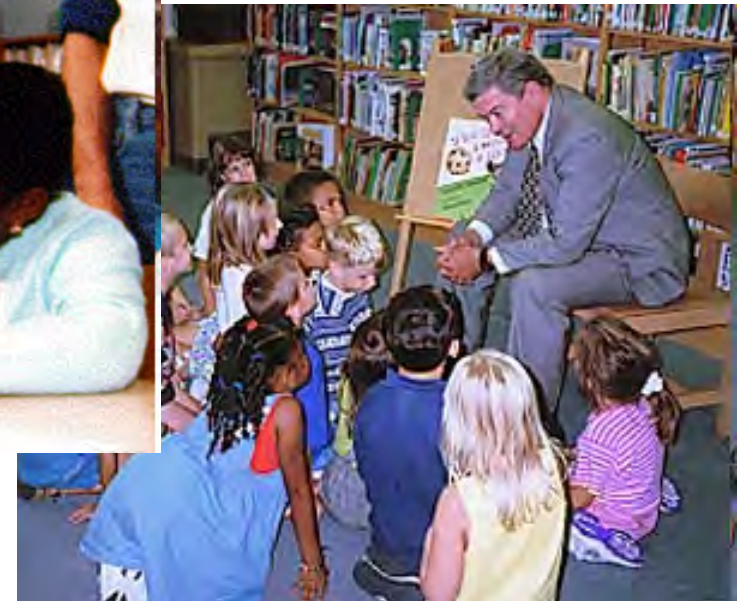
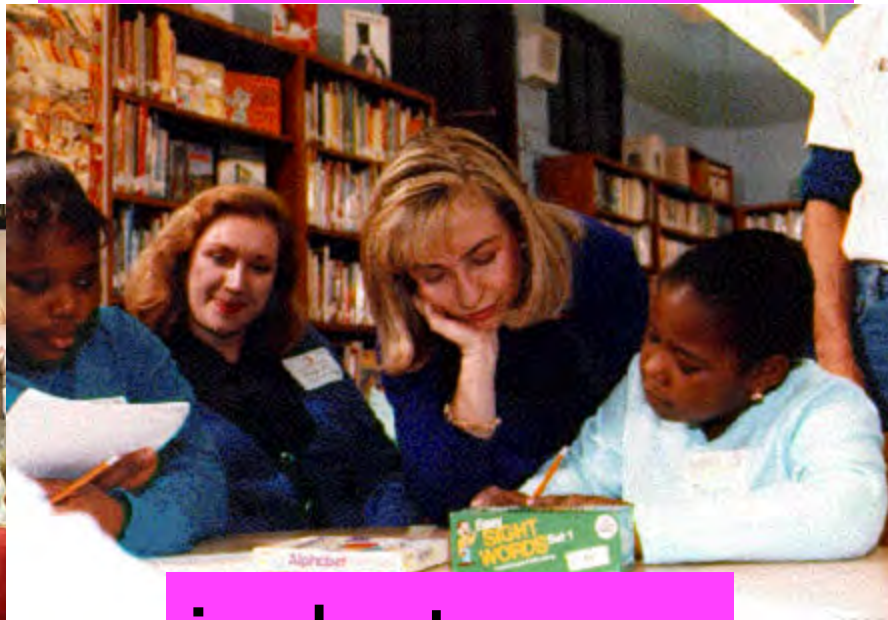
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**School Boards do NOT have unrestricted authority
May consider vulgarity and educational suitability,
but not merely the unorthodox ideas represented**

Classrooms
educationally
suitable

School libraries

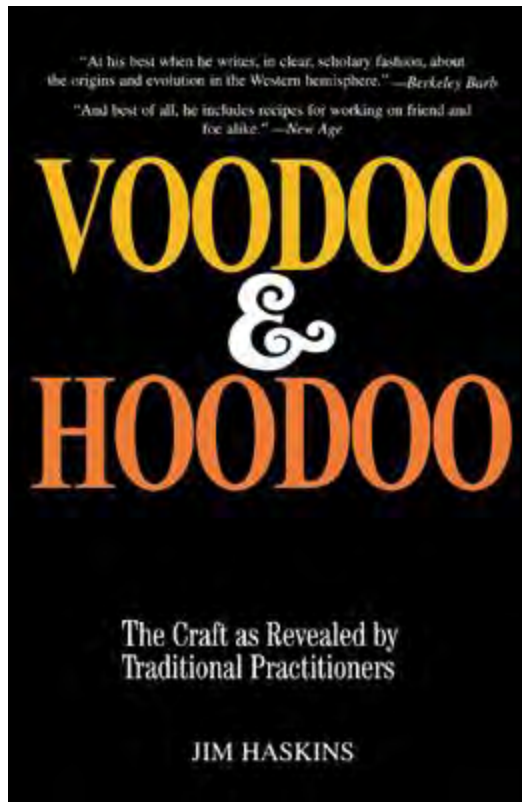
Public Libraries
freewheeling



in between

Bd. of Ed. v. Pico, 457 U.S. 853 (1982)

School Libraries Book Removal



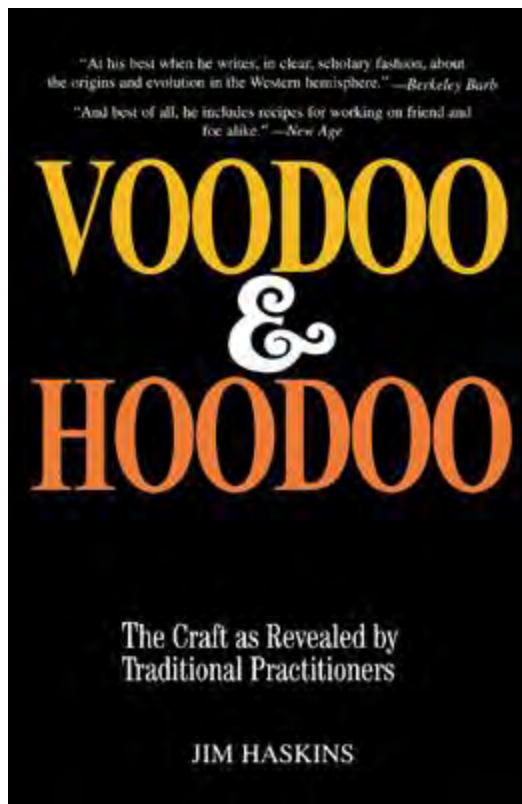
Scholarly and practical look
West African religions in U.S.

Spells to do ill
Love Spells

Court: Deny access to ideas?
If so, return to shelves

Campbell v. St. Tammany Parish School Board, 64 F.3d 184 (5th Cir. 1995)

Court Looks at Board's Motivation



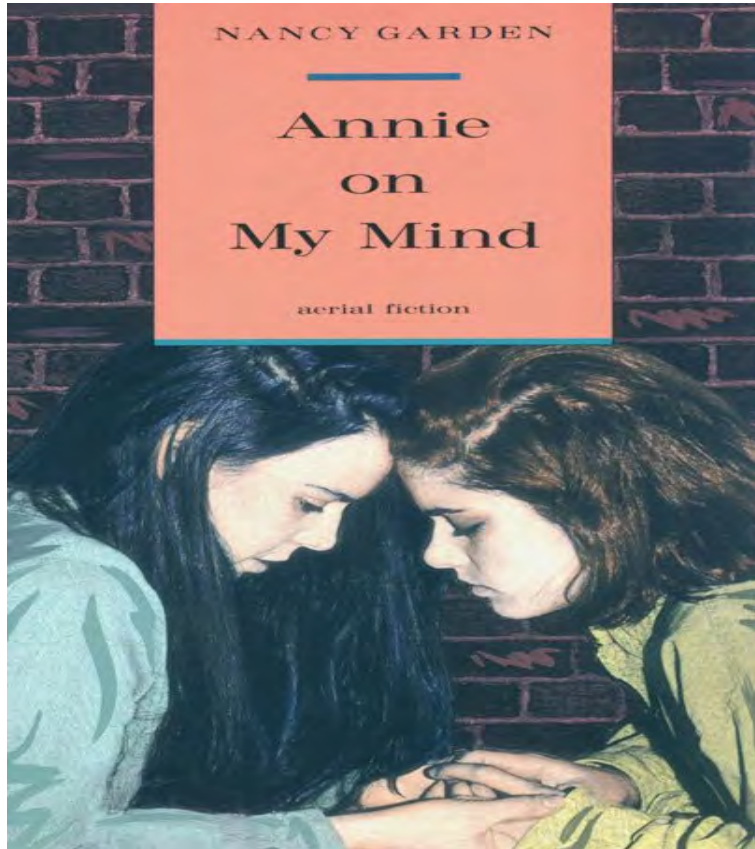
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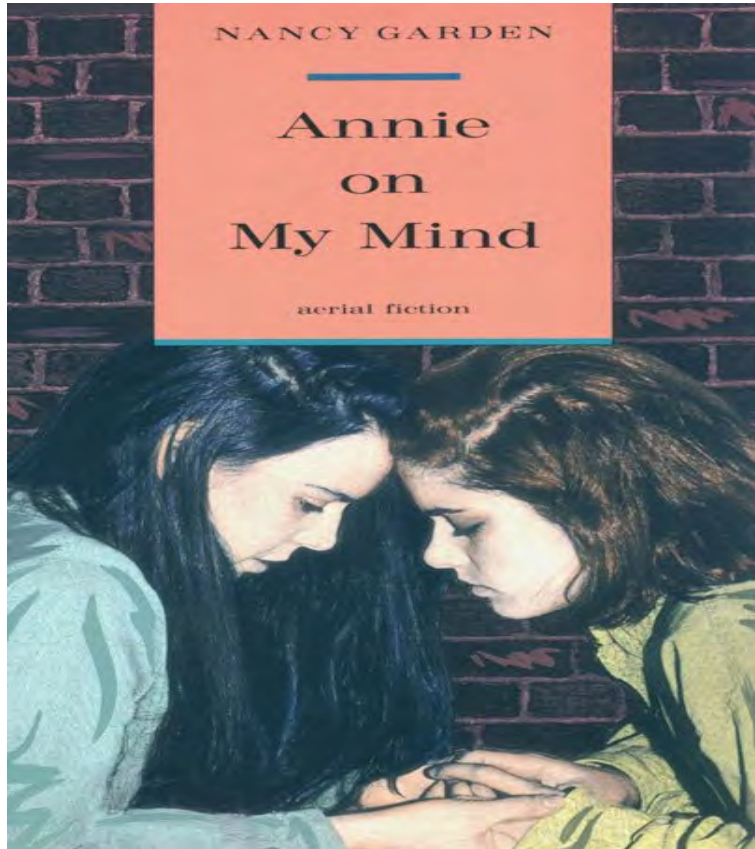
School Board removes Annie



novel about teenage
lesbian relationship

Case v. Unified School District No. 233, 908 F. Supp. 864 (D. Kan. 1995)

Court: Violation of First Amendment

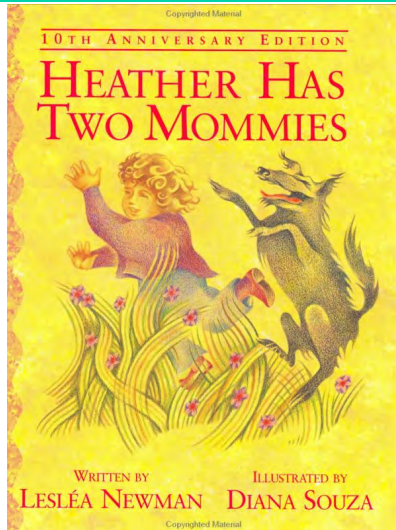


**Removal not based on
“educational suitability”**

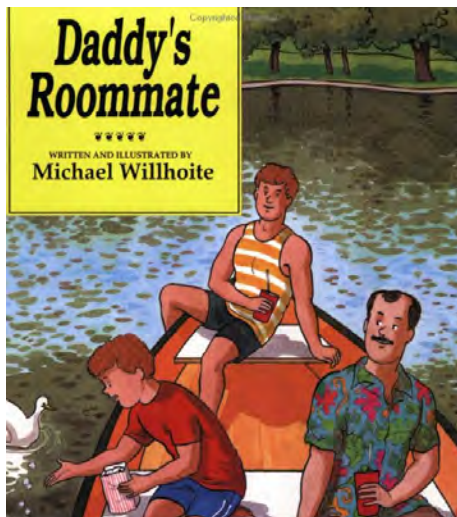
but on ideology

Case v. Unified School District No. 233, 908 F. Supp. 864 (D. Kan. 1995)

Public Library: Move books to adult shelves?



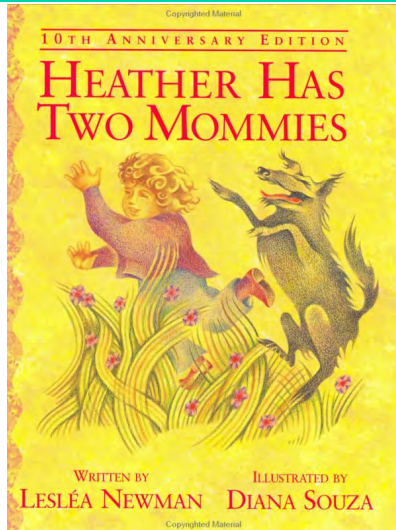
City council:
300 petitioners may demand
children's books go to adult area



Court:

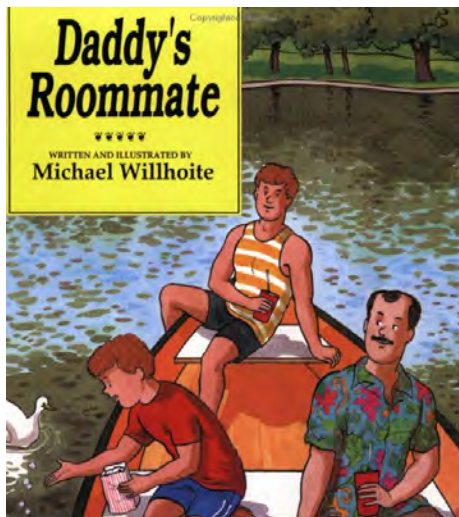
Sund v. City of Wichita Falls, 121 F. Supp. 2d 530, (N.D. Tex. 2000)

Court: No. Patron's don't decide this.



Children and parents sued library.

Court:

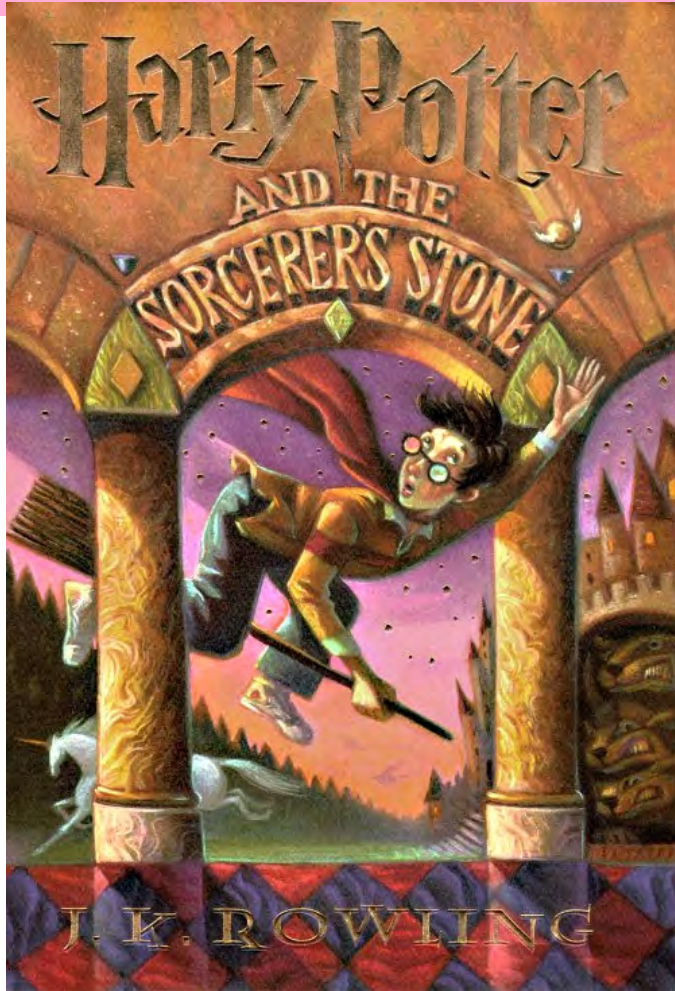


Books returned to children's area.

Next group may want to move children's bibles away from kids.

Sund v. City of Wichita Falls, 121 F. Supp. 2d 530, (N.D. Tex. 2000)

Can library require parent's permission to read Harry Potter?

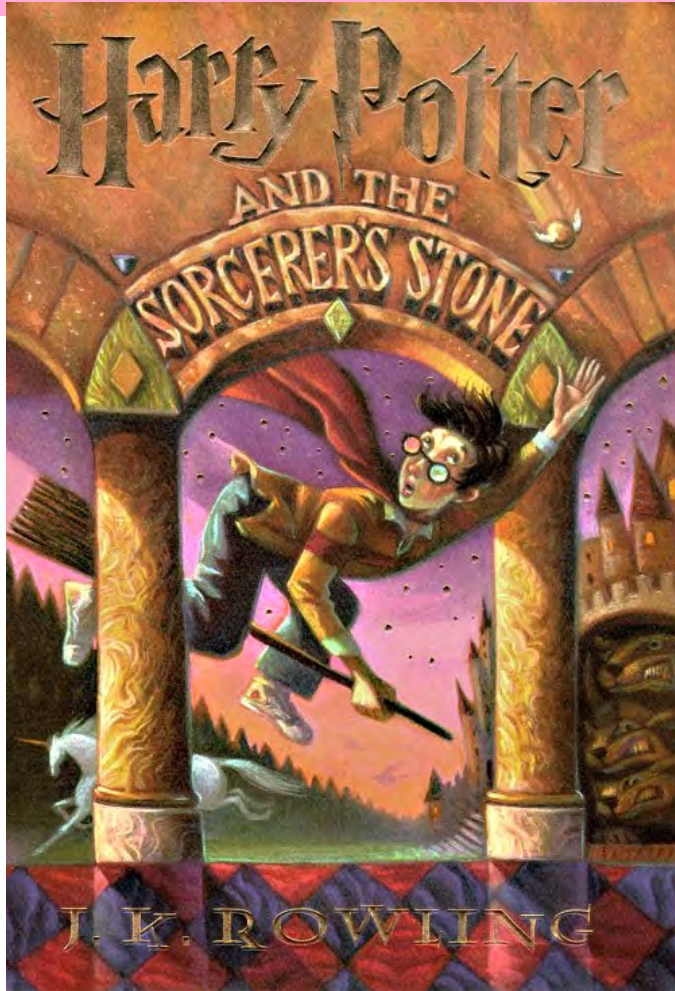


School board required parent's permission to read Harry.

Student sued.

Counts v. Cedarville Sch. Dist. 295 F. Supp. 2d 996 (2003)

Can library require parent's permission to read Harry Potter?



School board required parent's permission to read Harry.

Student sued.

Court: No. Return to open shelves.

Otherwise, too much burden, stigma for children

Counts v. Cedarville Sch. Dist. (Ark.) 295 F. Supp. 2d 996 (2003)

Who Decides What Goes in Library Collection?



**Librarians
Select and
Weed**



Library Board
Vote to remove
book



Legislator
Ties funding to policies

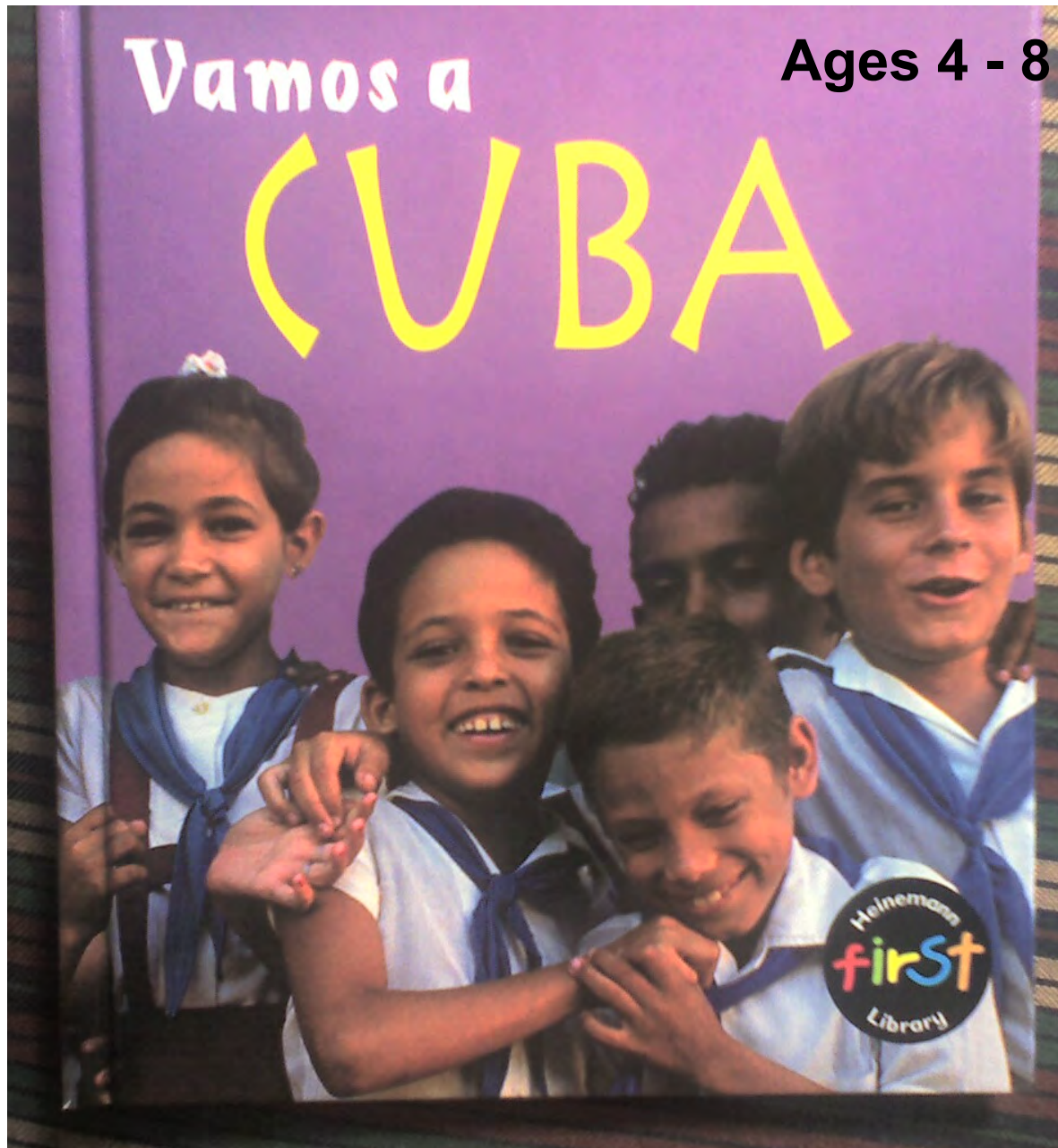


Chief Justice John Roberts

First Amendment

Schools – may remove
if educationally unsuitable

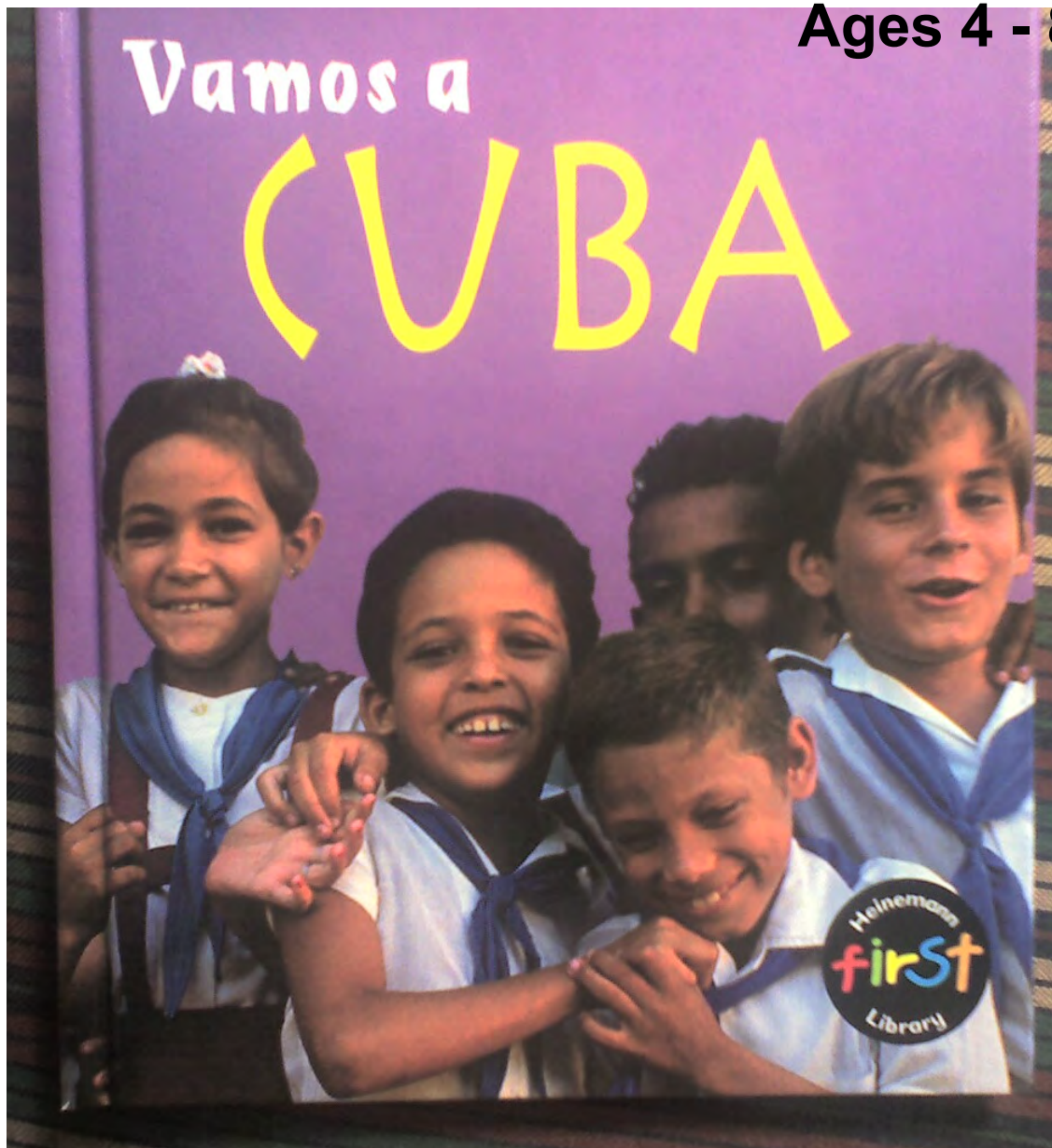
Public Libraries – may
remove if unprotected by
First Amendment



Parents wanted
removal from
school library

ACLU v. Miami-Dade County Sch. Bd., 557 F.3d 1177, 1200 (11th Cir.), *cert. denied*, 130 S. Ct. 659 (2009).

Ages 4 - 8

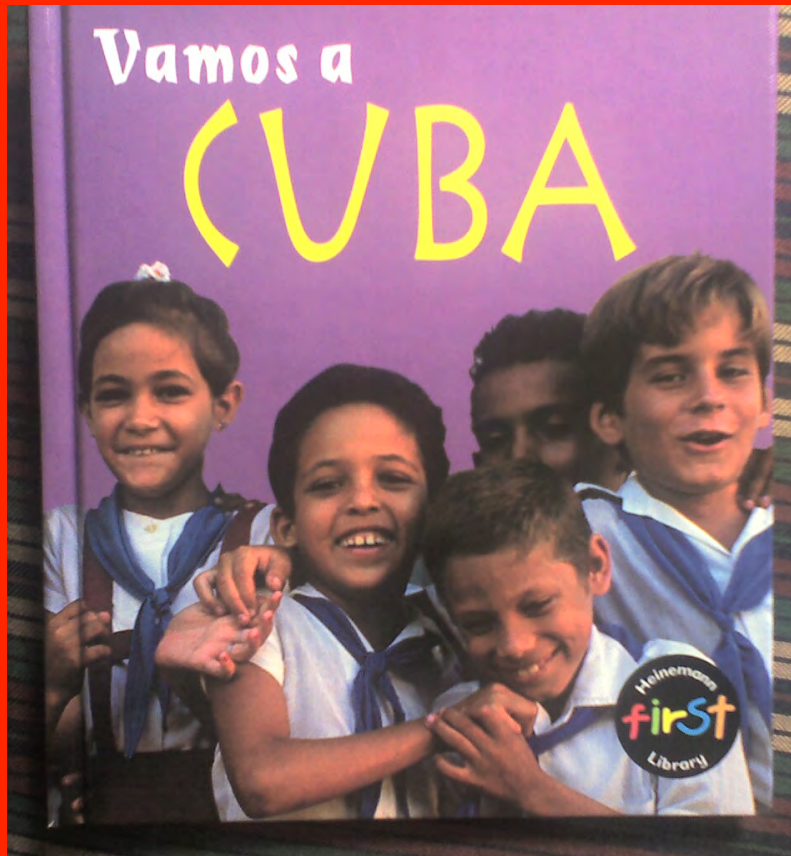


"The people of Cuba eat, work and study like you"

Complaint: Nothing could be further from the truth. People of Cuba survive without civil liberties and due process.

ACLU v. Miami-Dade County Sch. Bd., 557 F.3d 1177, 1200 (11th Cir.), *cert. denied*, 130 S. Ct. 659 (2009).

School Library Book (Miami, FL)



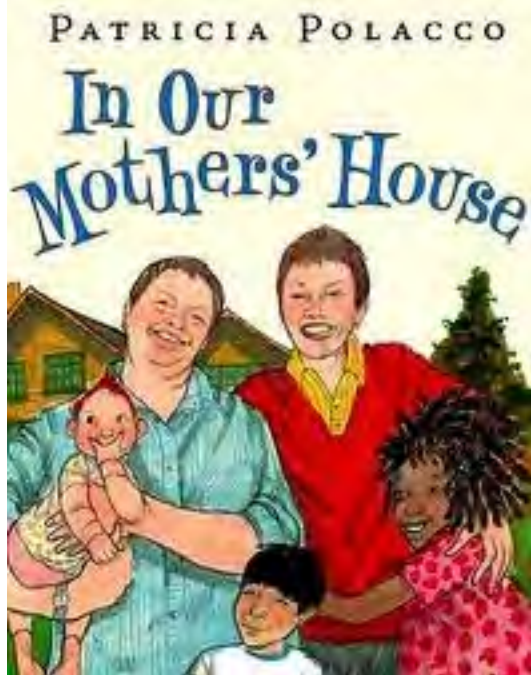
Ages 4 - 8

COURT:

**School board may remove
book based on inaccuracies.**

ACLU v. Miami-Dade County Sch. Bd., 557 F.3d 1177 (11th Cir.),
cert. denied, 130 S. Ct. 659 (2009).

Picture book

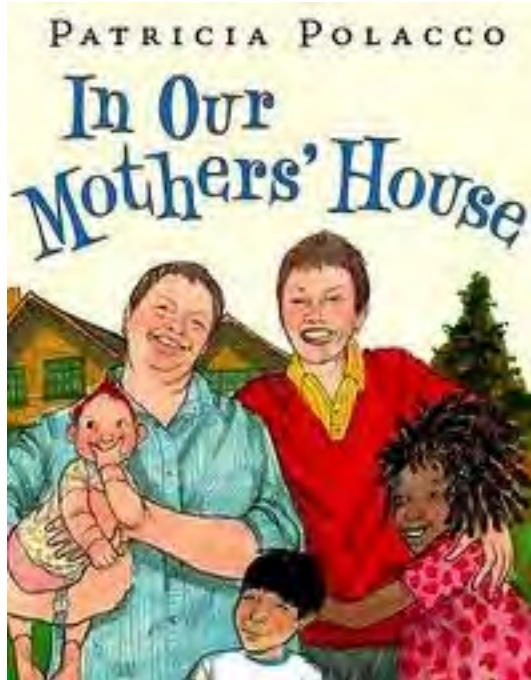


Parents complained book
“normalizes a lifestyle we don’t
agree with”

School district behind counter

Said “advocacy of homosexuality,”
violated Utah sex education laws

Picture book



Settled 2013.

School District agreed to return to regular circulation.

Book may be restricted per-student at the request of parent (like any book)

AW v Davis School Dist. settled and dismissed Feb. 4, 2013 1:2012cv00242
<http://dockets.justia.com/docket/utah/utdce/1:2012cv00242/86877>

Internet

**Man looks at
porn on the
computer.**

**Another patron
complains.**



Legal Definitions



*Speech protected under
umbrella of First
Amendment:*



Violent

Inappropriate

Disgusting

May lead to
illegal behavior

Profane

as well as

Hateful

Beautiful

Indecent

Poetic

Early lawsuit: Parent sues Livermore

Premises liability

Public nuisance

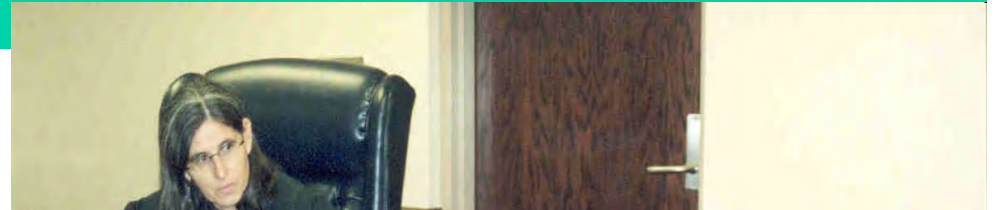
Public funds waste

... and Constitutional Duty
to Protect child



Parent, Kathleen R. sued Livermore
son downloaded pornography at the library

Library Won



Possible s

Premis

Public

Public

Possible f

Protec



California: *Kathleen R. v. City of Livermore*,
87 Cal. App. 4th 684 (2001)

Children's Internet Protection Act (CIPA)

...requires schools and libraries with specific federal funds* to block

- child pornography
- obscenity
- harmful to minors



*erate discounts and LSTA funds for internet access

U.S. Supreme Court
NOT PROTECTED under
Umbrella of First Amendment

- C
- O
- H



First Amendment does not protect

- Child Pornography
- Obscenity
- Harmful to Minors



Child Pornography

Image of minor "sexually explicit conduct"

None at home

No research purpose

DO NOT UNBLOCK!



Call Police

Cybertipline.com or call **1-800-843-5678** (1-800-THE-LOST)

CIPA cites 18 U.S.C. Sec. 2256;
PROTECT ACT Signed into law April 30, 2003; See 18 U.S.C. §2256(B);

Report an incident

Information entered into this form will be provided to law enforcement for possible investigation.
You can contact the National Center for Missing & Exploited Children 24 hours a day at 1-800-THE-LOST.

10% complete

Incident Information

What are you reporting?*

Select

Where did the incident occur?*

Select

Approximate Date and Time of Incident

Time Zone



Select

Do you have information about the suspect or child victim?*

* indicates a required field

[Contact Us](#) - [Privacy Policy](#) - [Site Search](#) - [Terms of Use](#)

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What about man with his own laptop or mobile device?



United States v. Talley, 392 Fed. Appx. 129, 2010 U.S. App. LEXIS 17058 (4th Cir. Va. 2010); *cert. den.* 131 S. Ct. 84 (2010)

What about man with his own laptop or mobile device?



Child Pornography is ILLEGAL

Any device

United States v. Talley, 392 Fed. Appx. 129, 2010 U.S. App. LEXIS 17058 (4th Cir. Va. 2010); *cert. den.* 131 S. Ct. 84 (2010)

Key Point

It's not censorship to
report child
pornography.

Child pornography is
against the law.



Obscenity

- Community standards find prurient interest
- Patently offensive sexual conduct defined by state law ... **and**
- Taken as a whole *lacks serious* literary, artistic, political, or scientific value.

CIPA cites 18 U.S.C. § 1460; Courts likely to apply *Miller v. California*, 413 U.S. 15, 24 (1973). See also "Judicial Erosion of Protection for Defendants in Obscenity Prosecutions?: When Courts Say, Literally, Enough is Enough and When Internet Availability Does Not Mean Acceptance." *Harvard Journal of Sports & Entertainment Law*, (Spring 2010) <http://tinyurl.com/obscenityprosecutions>

Harmful to Minors

“harmful to minors” means any picture, image, graphic image file, or other visual depiction that–

- (A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
- (B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
- (C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

Harmful to Minors (part of CIPA)

NEW to federal law

The term “
image, graphic
depiction

(A) taken and
appears to
excretion

(B) depicts
offensive
minors, and
sexual con-
perverted
genitals;

(C) taken and
political,



means any picture,
whether visual

with respect to minors,
nudity, sex, or

elements, in a patently
that is suitable for
sexual act or
depicted normal or
and exhibition of the

is literary, artistic,
to minors.

Children's Internet Protection Act (Pub. L. 106-554)

Libraries with E-Rate discounts and certain LSTA funds *

Required to block or filter
“visual depictions”

CIPA *images* to block



SEXUAL
Not merely nudity

	Adults	Children
Child Pornography	X	X
Obscenity	X	X
Harmful to Minors		X

*for Internet service or internal connections. Also applies to libraries with LSTA grants for computers and direct costs to access the Internet

CIPA cites 18 U.S.C. § 1460; Courts likely to apply *Miller v. California*, 413 U.S. 15, 24 (1973). See also "Judicial Erosion of Protection for Defendants in Obscenity Prosecutions?: When Courts Say, Literally, Enough is Enough and When Internet Availability Does Not Mean Acceptance." *Harvard Journal of Sports & Entertainment Law*, (Spring 2010) <http://tinyurl.com/obscenityprosecutions>

Is Graphic Violence Harmful to Minors?

Supreme Court:

No



Brown v. Entertainment Merchants Assn., 131 S. Ct. 2729 (2011)

May Library Filter Hate Sites?



First Time
Visitors
Information Files
Newspapers
Audio Files
Join Online



CofCC
Merchandise

Not recommended.

CONSENT
JUDGMENT:
LIBRARY REMOVES
HATE FILTERS

public schools are teaching your
History Myths

www.cofcc.org/

6. Maplewood City Library...
any Internet filter that re...
other than those proscribed...
254(h)(6) of the Children's...
Access to Computer Port...
... of the First and Fourteenth
- ...dge that
...wpoints
...S.C. §
...of the

Baum v Maplewood City Library et al – Consent Judgment Feb. 5, 2007 (libraries acknowledge filters restricting hate speech or content other than that proscribed by CIPA is a violation of First and Fourteenth
<http://tinyurl.com/hatefilters>

May a School Filter LGBT Sites?

Missouri school uses URL
Blacklist (free).

Blocks categories
“pornography” “sexuality”

PFLAG claimed it blocks sites
expressing a positive
viewpoint towards LGBT

Students could request
unblocking, but not
completely anonymously



Parents, Families, and Friends of Lesbians and Gays v.
Camdenton R-III School District, 2:11-cv-04212

No. Viewpoint Discrimination.

School district must stop
blocking LGBT websites,
submit to monitoring of its
filtering practices for 18
months
and pay the ACLU's
\$125,000 attorney fees



Parents, Families, and Friends of Lesbians and Gays v.
Camdenton R-III School District, 2:11-cv-04212

Is Filtering Internet a removal of library content?

It's complicated.

WA Supreme Court (6-3):
Internet sites are part of
collection development.

No need to disable filters.



Law: Library may disable "to enable access for bona fide research or other lawful purposes"

U.S. Supreme Court (2003): Concerns dispelled by the ease with which patrons may have filtering disabled.

47 U.S.C. § 254(h)(6)(D) (E-rate: disabling permitted for adults); 20 U.S.C. § 9134(f)(3) (disabling permitted without mention of age); Anten, Todd. (Fall, 2005). Note: "Please Disable the Entire Filter": Why Non-Removable Filters on Public Library Computers Violate the First Amendment, *11 Texas Journal on Civil Liberties & Civil Rights* 65; Mary Minow. (April 5, 2004). Lawfully Surfing the Net: Disabling Public Library Internet Filters to Avoid More Lawsuits in the United States *First Monday*, firstmonday.org/issues/issue9_4/minow/; *Bradburn v. North Central Regional Library District* (WA Supreme Court upholds library policy of no disabling)(now pending in federal court <http://tinyurl.com/filterdisabling>)

Joint school / public library



Library worthy mission of facilitating learning, research, and recreational pursuits. Not required to provide “universal coverage” and enjoys “broad discretion to decide what material to provide to [its] patrons.”

Bradburn v North Central Regional Library District, 2012 U.S. Dist. LEXIS 50360 (April 10, 2012); See also *U.S. v. American Library Association*, 539 U.S. 194 (2003) (upheld filters, noting that librarians can disable on request)

Responding to Challenges

Constitution

Federal Law

State Laws

Local laws

Library Policies

**Where does ALA Code
of Ethics fit in?**

Responding to Challenges

Code of Ethics

equitable access, unbiased,
and courteous responses to
all ...

Library Bill of Rights

right to use library not
denied or abridged because

origin, age, background, or views



Personal v. Professional

Code of Ethics

We do not allow our personal beliefs to interfere with access to information.



Vegetarian librarian opposed to cookbooks with hamburgers

TODAY: American Library Association Code of Ethics & Bill of Rights



The principles of this Code are expressed in broad statements to guide ethical decision making. These statements provide a framework; they cannot and do not dictate conduct to cover particular situations.

Code of Ethics of the American Library Association

As members of the American Library Association, we recognize the importance of codifying and making known to the profession and to the general public the ethical principles that guide the work of librarians, other professionals providing information services, library trustees and library staff.

Ethical dilemmas occur when values are in conflict. The American Library Association Code of Ethics states the values to which we are committed, and embodies the ethical responsibilities of the profession in this changing information environment.

We significantly influence or control the selection, organization, preservation, and dissemination of information. In a political system grounded in an informed citizenry, we are members of a profession explicitly committed to intellectual freedom and the freedom of access to information. We have a special obligation to ensure the free flow of information and ideas to present and future generations.

The principles of this Code are expressed in broad statements to guide ethical decision making. These statements provide a framework; they cannot and do not dictate conduct to cover particular situations.

- I. We provide the highest level of service to all library users through appropriate and widely organized resources, equitable service policies, equitable access and accurate, unbiased and complete responses to all requests.
- II. We uphold the principles of intellectual freedom and resist all efforts to censor library resources.
- III. We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.
- IV. We respect intellectual property rights and advocate a balance between the interests of information users and rights holders.
- V. We treat ourselves and other colleagues with respect, fairness, and good faith, and advocate conditions of employment that uphold the rights and welfare of all employees of our institutions.
- VI. We do not advance private interests at the expense of library users, colleagues, or our employing institutions.
- VII. We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.
- VIII. We strive for excellence in the profession by maintaining and enhancing our own knowledge and skills, by encouraging the professional development of colleagues, and by fostering the acquisition of potential members of the profession.

Adopted June 28, 1997, by the ALA Council; amended January 22, 2008.

Library Bill of Rights

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.

Adopted June 19, 1939.
Amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; and January 23, 1980;
inclusion of "age" reaffirmed January 23, 1996, by the ALA Council.

Dealing with Challenges to Books and Other Library Materials

Below are links to assist those involved in challenges to books and other library materials. For assistance with actual and possible challenges to books, Internet access, magazines, and other library materials, you also may contact [Deborah Caldwell-Stone](#), Office for Intellectual Freedom, 800-545-2433, ext. 4224, or [OIF](#), Office for Intellectual Freedom, 800-545-2433, ext. 4223.

"Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment."—Article 3, [Library Bill of Rights](#)

"Intellectual Freedom is the right of every individual to both seek and receive information from all points of view without restriction. It provides for free access to all expressions of ideas through which any and all sides of a question, cause or movement may be explored. Intellectual freedom encompasses the freedom to hold, receive and disseminate ideas."—[Intellectual Freedom and Censorship Q & A](#)

Links to Assist Those Involved in Challenges to Books and Other Library Materials

[Checklist & Ideas for Library Staff Working with Community Leaders](#)

[Conducting a Challenge Hearing](#)

[Coping with Challenges: Kids and Libraries](#)

[Coping with Challenges: Strategies and Tips for Dealing with Challenges to Library Materials](#)

[Dealing with Challenges to Graphic Novels](#)

[Dealing with Challenges to Library Materials Podcast](#) (mp3; if you need instructions, see [OIF Podcasts](#))

[Dealing with Concerns about Library Resources](#)

[Developing a Confidentiality Policy](#)

[Gay, Lesbian, Bisexual, and Transgender Tool Kit](#)

[Guidelines and Considerations for Developing a Public Library Internet Use Policy](#)

[Guidelines and Considerations for Developing a Public Library Internet Use Policy](#) (PDF File)

[Libraries & the Internet Toolkit](#)

[Libraries & the Internet Toolkit](#) (PDF File)

[Workbook for Selection Policy Writing](#) (to assist school library media specialists)

See also [Challenged Materials and Access to Resources and Services in the School Library Media Program](#) ([Interpretations of the Library Bill of Rights](#))

Links to non-ALA sites have been provided because these sites may have information of interest. Neither the American Library Association nor the Office for Intellectual Freedom necessarily endorses the views expressed or the facts presented on these sites; and furthermore, ALA and OIF do not endorse any commercial products that may be advertised or available on these sites.

Key point:
Use library policy

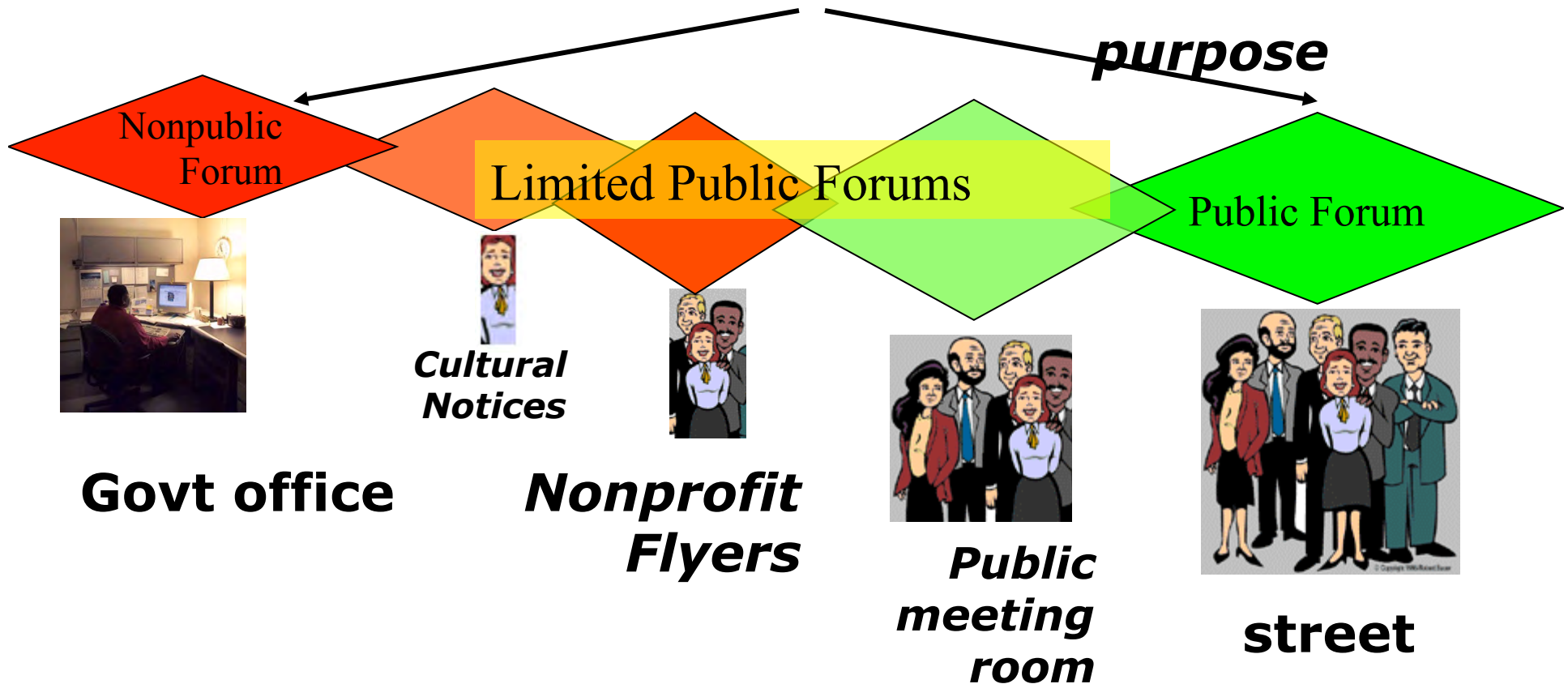
REMOVAL DECISIONS MADE BY DIRECTOR AND BOARD

Resources:

ALA Office for
Intellectual Freedom

<http://tinyurl.com/ydtbwp3> 800-545-2433, ext. 4223

First Amendment and Public Forums



Public Comments in Limited Public Forum

- ▶ Define purpose of the space
 - Broad: Library services
 - Narrow: Reading game
- ▶ Ask for civility (but don't enforce)
- ▶ Remove OFF TOPIC
 - Cialis
 - Personal attacks that are off topic
- ▶ Bury offensive posts

OFF TOPIC!

Want More Control?

Treat online space as a newsletter
with letters to the editor

“Government speech”
Content is determined
by library



But isn't the library responsible for libel?

No.

Matchmaker.com not liable when user posted false profile for Star Trek actress

Carafano v. Metrosplash.com, Inc., 339 F.3d 1119 (9th Cir. 2003)



Sect. 230 broad protection – from false information, negligence, sexually explicit content, discrimination

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. 47 USC§ 230(c)

'ery tough to show threats, stalking

The image shows a screenshot of the Stalking Resource Center website and an NCSL document. The website header includes 'Stalking resource center' and 'THE NATIONAL CENTER FOR VICTIMS OF CRIME'. The NCSL document is titled 'NCSL NATIONAL CONFERENCE OF STATE LEGISLATURES' and contains definitions for 'Cyberstalking' and 'Cyberharassment'. It also includes a table of state statutes related to cyberstalking and cyberharassment.

Cyberstalking. Cyberstalking is the use of the Internet, email or other electronic communications to stalk, and generally refers to a pattern of threatening or malicious behaviors. Cyberstalking may be considered the most dangerous of the three types of Internet harassment, based on a posing credible threat of harm. Sanctions range from misdemeanors to felonies.

Cyberharassment. Cyberharassment differs from cyberstalking in that it may generally be defined as not involving a credible threat. Cyberharassment usually pertains to threatening or harassing email messages, instant messages, or to blog entries or websites dedicated solely to tormenting an individual. Some states approach cyberharassment by including language addressing electronic communications in general harassment statutes, while others have created stand-alone cyberharassment statutes.

See also: [State laws related to electronic solicitation or luring of children, internet filtering laws--schools and libraries, and NCSL LegisBrief: Protecting Children Online.](#)

State/Territory	Cyberstalking	Cyberharassment
Alabama		Ala. Code § 13A-11-8
Alaska	Alaska Stat. §§ 11.41.260, 11.41.270	
Arizona	Ariz. Rev. Stat. § 13-2923	Ariz. Rev. Stat. §§ 13-2916, 13-2921
Arkansas	Ark. Code § 5-41-108	Ark. Code § 5-41-108
California	Cal. Civil Code § 1708.7, Cal Penal Code § 646.9	Cal. Penal Code §§ 422, 653.2, 653m

Pending case before Supreme Court: *Elonis v. United States*



Terms of Service

7. You will not post content that: is hate speech, threatening, or pornographic; incites violence; or contains nudity or graphic or gratuitous violence.
8. You will not develop or operate a third-party application containing alcohol-related, dating or other mature content (including advertisements) without appropriate age-based restrictions.
9. You will not use Facebook to do anything unlawful, misleading, malicious, or discriminatory.

Stuff you can't post

You aren't allowed to post anything that:

- Is sexually explicit or pornographic, exploits or presents minors in a sexual way, or promotes adult sexual services [\(Show explanation\)](#)
- Creates a genuine risk of physical injury or property damage, credibly threatens people or public safety, or organizes, encourages or celebrates harm [\(Show explanation\)](#)
- Promotes self-harm, eating disorders or hard drug abuse [\(Show explanation\)](#)
- Attacks, bullies or harasses nonpublic people [\(Show explanation\)](#)
- Includes hate speech [\(Show explanation\)](#)
- Is gratuitously violent or gory [\(Show explanation\)](#)
- Infringes anyone's intellectual property, privacy or other rights [\(Show explanation\)](#)
- Is fraudulent or deceptive [\(Show explanation\)](#)
- Is someone else's personal information or requests a minor's personal information [\(Show explanation\)](#)
- Contains any information or content that's illegal [\(Show explanation\)](#)

Things you can't do



The Twitter Rules



Our goal is to provide a service that allows you to discover and receive content from sources that interest you as well as to share your content with others. We respect the ownership of the content that users share and each user is responsible for the content he or she provides. Because of these principles, we do not actively monitor and will not censor user content, except in limited circumstances described below.

Content Boundaries and Use of Twitter

In order to provide the Twitter service and the ability to communicate and stay connected with others, there are some limitations on the type of content that can be published with Twitter. These limitations comply with legal requirements and make Twitter a better experience for all. We may need to change these rules from time to time and reserve the right to do so. Please check back here to see the latest.

- **Impersonation:** You may not impersonate others through the Twitter service in a manner that does or is intended to mislead, confuse, or deceive others.
- **Trademark:** We reserve the right to reclaim usernames on behalf of businesses or individuals that hold legal claim or trademark on those usernames. Accounts using business names and/or logos to mislead others may be permanently suspended.
- **Private information:** You may not publish or post other people's private and confidential information, such as credit card numbers, street address or Social Security/National Identity numbers, without their express authorization and permission.
- **Violence and Threats:** You may not publish or post direct, specific threats of violence against others.

<https://www.facebook.com/legal/terms>

[t.pinterest.com/en/acceptable-use-policy](https://www.pinterest.com/en/acceptable-use-policy)

<https://support.twitter.com/articles/18311-the-twitter-rules>

Further Reading

SOCIAL MEDIA, ADMINISTRATIVE AGENCIES, AND THE FIRST AMENDMENT

ALISSA ARDITO*

TABLE OF CONTENTS

Introduction.....

I. Federal Agency Social Media

A. Third-Party Providers.....

B. The Purpose and Use of Agency Comment Policies

C. The Public Realm Online

D. Agency Comment Policies

II. The Doctrinal and Theoretical

A. Theories of Free Speech

B. The Public Forum Doctrine

C. The Government Speech

III. Choice of Doctrine.....

A. Relevant Factors: N

B. The Government

1. *Page, Gittens, a*

and Purpose

2. Analysis of Application

3. Argument from Principle: Liberal

C. The Public Forum Test



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Notre Dame Law Review

Article 9

2-2014

Online Terms of Service: A Shield for First Amendment Scrutiny of Government Action

Jacquelyn E. Fradette

http://politicalscience.yale.edu/sites/default/files/ardito_alissa_socmediaadminagenciesandfirstamend.pdf

Employees and Social Media

You heard that a library worker in the next county was reprimanded for a post she put on the library's social media site. Now you wonder about writing your next posts for your library.

Library determines *official* speech



The screenshot shows the website of the Institute for Local Government (ILG). The header includes the ILG logo and the text 'INSTITUTE FOR LOCAL GOVERNMENTSM Promoting Good Government at the Local Level'. A navigation bar contains links for Home, ILG Programs and Resources, The Publications Center, and About the Institute. Below the navigation bar, there is a 'Back' link and a section titled 'THIS ITEM APPEARS IN: Social Media Strategies'. The main content area is titled 'Sample Social Media Policies' and includes a description: 'See this collection of social media policies from cities, counties, other levels of government and the private sector.' Below this, there is a section 'From Public Agencies' with a list of links to various social media policies and toolkits, including Marin County, Palo Alto, West Hollywood, San Mateo County, Orange County, State of Utah, City of Seattle, King County Washington, and State of California.

INSTITUTE FOR LOCAL GOVERNMENTSM
Promoting Good Government at the Local Level

Home | ILG Programs and Resources | The Publications Center | About the Institute

« Back

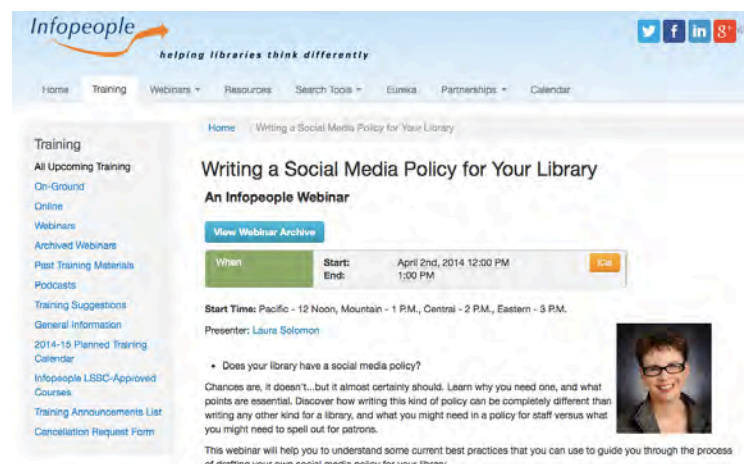
THIS ITEM APPEARS IN:
Social Media Strategies

Sample Social Media Policies

See this collection of social media policies from cities, counties, other levels of government and the private sector.

From Public Agencies

- [Marin County Social Media Policy](#)
- [City of Palo Alto Social Media Policy](#) (see document at right)
- [City of West Hollywood Social Media Policy](#) (see document at right)
- [San Mateo County Social Media Toolkit](#) (see PDF at right)
- [Orange County Social Media Use Policy](#)
- [State of Utah Social Media Policy](#)
- [City of Seattle Social Media Policies](#) (includes links to a variety of sub-policies, including use of Facebook, Twitter and the city's inclusive engagement policy)
- [King County Washington Social Media Handbook](#) (includes guidelines, comments policy and social media action plan)
- [State of California Social Media Standard](#) (February 2010)



The screenshot shows the Infopeople website. The header includes the Infopeople logo and the tagline 'helping libraries think differently'. There are social media icons for Twitter, Facebook, LinkedIn, and Google+. A navigation bar contains links for Home, Training, Webinars, Resources, Search Tools, Events, Partnerships, and Calendar. The main content area is titled 'Writing a Social Media Policy for Your Library' and is an Infopeople Webinar. It includes a 'View Webinar Archive' button and a table with the following information: When, Start, End, and Start Time. The presenter is Laura Solomon. There is a photo of Laura Solomon. The text describes the webinar's purpose: to help libraries understand current best practices and guide the process of drafting a social media policy.

Infopeople
helping libraries think differently

Home | Training | Webinars | Resources | Search Tools | Events | Partnerships | Calendar

Home | Writing a Social Media Policy for Your Library

Writing a Social Media Policy for Your Library

An Infopeople Webinar

[View Webinar Archive](#)

When	Start	End
	April 2nd, 2014 12:00 PM	1:00 PM

Start Time: Pacific - 12 Noon, Mountain - 1 PM, Central - 2 PM, Eastern - 3 PM.

Presenter: [Laura Solomon](#)

• Does your library have a social media policy?

Chances are, it doesn't...but it almost certainly should. Learn why you need one, and what points are essential. Discover how writing this kind of policy can be completely different than writing any other kind for a library, and what you might need in a policy for staff versus what you might need to spell out for patrons.

This webinar will help you to understand some current best practices that you can use to guide you through the process of drafting your own social media policy for your library.

<http://www.ca-ilg.org/post/sample-social-media-policies>

Graziosi v. City of Greenville, No. 13-60900 (5th Cir. Jan. 9, 2015)

Social Media Speech as Private Citizen

Public employees, (unlike private) do have some limited First Amendment rights to speak out on matters of public concern.

Court must find YES to all three ... or

- 1) Private (not workplace) speech?
- 2) Public concern? Corruption?
(mere gripes don't qualify)
- 3) **Does public interest outweigh employer's interest in maintaining order?**



employee loses

e.g. off duty police officer terminated after criticizing chief on Facebook. Loses case.

[Graziosi v. Greenville, No. 13-60900 \(5th Cir. Jan. 9, 2015\)](#)

But note: Speech protected for some “concerted activity” e.g. union organizing
<http://www.nlr.gov/news-outreach/fact-sheets/nlr-and-social-media>

Recap

Library shelves

- Books (schools and public libraries)
- Internet

Responding to challenges

- American Library Association

Social Media update

- Public and staff posts

Legal information, not legal advice

Social Media

Public comments

One public comment on the library's social media site seems like a slur and another seems like a threat. Should you remove them?





Questions

Thank you



minow@librarylaw.com



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