

# ACCESS TO DIGITAL RESOURCES AND SERVICES

## An Interpretation of the *Library Bill of Rights*

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The fundamental mission of libraries is to provide access to information, regardless of content or format, to everyone. Digital resources and services, or resources and services made primarily available online or on digital devices, are integral to libraries' mission in the twenty-first century. Libraries are important points of access to many digital resources and services, including, but not limited to, computers, the Internet, and digital resources and tools. In order to provide access to digital resources and services while upholding the *Library Bill of Rights*, libraries must consider intellectual freedom principles and issues of equity to ensure that access to information is enhanced, not restricted, by digital technology.

Libraries should regularly review issues arising from digital creation, distribution, retrieval, and archiving of information. Any review of these issues should consider users' First Amendment rights, rights to privacy, and the core values of librarianship as expressed in the *Library Bill of Rights* and the *Code of Ethics of the American Library Association*. Many people lack access or the capability to use or create digital resources effectively. There is a need for places where people can access, use, or create information without impediment. It is the responsibility of libraries to provide access to digital resources and services and to mitigate all barriers, whether they are economic, educational, or political. The provision of access does not imply sponsorship or endorsement by the library. Libraries should resist all attempts by individuals, governments, and private entities to censor or limit access to digital resources or services.

In making decisions about how to offer access to digital resources, services, tools, physical equipment, and networks, each library should consider intellectual freedom principles and issues of equity in the context of its mission, goals, objectives, cooperative agreements, and the needs of the entire community it serves.

### **The Rights of Users**

All library policies, procedures, or regulations relating to digital resources and services should be scrutinized for potential violations of user rights. User policies should be developed according to the policies and guidelines established by the American Library Association.<sup>1</sup>

Users' access to digital resources and services should not be restricted or denied for expressing, receiving, creating, or participating in constitutionally protected speech. If access is restricted or denied for behavioral or other reasons, users should be provided due process, including, but not limited to, formal notice and a means of appeal.

Information retrieved, utilized, or created digitally is constitutionally protected unless determined otherwise by a court of competent jurisdiction. These rights extend to minors as well as adults.<sup>2</sup> Libraries should use technology to enhance, not deny, digital access. Users have the right to be free of unreasonable limitations or conditions set by libraries, librarians, system administrators, vendors, network service providers, or others. Contracts, agreements, and licenses entered into by libraries on behalf of their users should not violate this right. Libraries should provide library users the training and assistance necessary to find, evaluate, use, and create information effectively.

All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use.<sup>3</sup> The library should uphold these rights by policy, procedure, and practice in accordance with Article VII of the *Library Bill of Rights*. The library should regularly maintain its systems and networks in order to protect users' rights to privacy and confidentiality. As libraries increasingly provide access to digital resources through third-party vendors, libraries have a responsibility to hold vendors accountable for protecting patrons' privacy.

### **Equity of Access**

The digital environment provides expanding opportunities for everyone to participate in the information society, but individuals may face serious barriers to access. These barriers, often referred to as the digital divide, may include a lack of infrastructure for Internet connectivity, lack of tools (hardware or software), and lack of skills, knowledge, or means necessary to access digital resources.<sup>4</sup> Libraries should be cognizant of the digital divide and work to minimize it as they provide access to digital resources for their communities.

Digital resources, services, training, and networks provided directly or indirectly by the library should be readily and equitably accessible to all library users. American Library Association policies oppose the charging of user fees for the provision of information services by libraries that receive support from public funds.<sup>5</sup> Libraries should develop policies concerning access to digital resources. These policies should be consistent with ALA's policies and guidelines. When new digital resources are provided to library users, libraries have an obligation to provide equitable training opportunities to library users and workers in using those new resources. Training should also address privacy and security issues that accompany the use of digital resources and services.

### **Information Resources and Access**

Libraries, acting within their mission and objectives, should support access to information on all subjects that serve the needs or interests of each user, regardless of the user's age or the content of the material. In order to preserve the cultural record and to prevent the loss of information, libraries may need to expand their selection or collection-development policies to ensure preservation, in appropriate formats, of information obtained digitally. Libraries have an obligation to provide access to government information available in digital format.

Providing connections to global information, services, and networks is not the same as selecting and purchasing materials for a library collection. Some information accessed digitally may not meet a library's selection or collection-development policy. It is, therefore, left to each user to determine what is appropriate. Libraries and library workers should not deny or limit access to digital resources because of their allegedly controversial content or because of a library worker's personal beliefs or fear of confrontation. Furthermore, libraries and library workers should not deny access to digital resources solely on the grounds that they are perceived to lack value. Parents and legal guardians who are concerned about their children's use of digital resources should provide guidance to their own children.

Publicly funded libraries have a legal obligation to provide access to constitutionally protected information. Federal, state, county, municipal, local, or library governing bodies sometimes require the use of Internet filters or other technological measures that block access to constitutionally protected information, contrary to the *Library Bill of Rights*.<sup>6</sup> 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.

Adults retain the right to access all constitutionally protected information and to ask for the technological measure to be disabled in a timely and confidential manner. Minors also retain the right to access constitutionally protected information and, at a minimum, have the right to ask the library or librarian to provide access to erroneously blocked information in a timely and confidential manner. In order to ensure user privacy and confidentiality, records of these requests should not contain personally identifiable information. Libraries and librarians have an obligation to inform users of these rights and to provide the means to exercise these rights.<sup>7</sup>

Digital resources and services allow libraries to significantly expand the scope of information available to users. Like all resources and services provided by the library, provision of access to digital resources and services should follow the principles outlined in the *Library Bill of Rights* to ensure equitable access regardless of content or platform.

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<sup>1</sup> "Guidelines for Library Policies," approved June 28, 1994 by the ALA Intellectual Freedom Committee; revised January 19, 2005; March 29, 2014 *under previous name* "Guidelines for the Development and Implementation of Policies, Regulations and Procedures Affecting Access to Library Materials, Services and Facilities"; June 24, 2019.

<sup>2</sup>*Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969); *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, 457 U.S. 853, (1982); *American Amusement Machine Association v. Teri Kendrick*, 244 F.3d 954 (7th Cir. 2001); *cert.denied*, 534 U.S. 994 (2001).

<sup>3</sup> "Privacy: An Interpretation of the Library Bill of Rights," adopted June 19, 2002, by the ALA Council; amended on July 1, 2014; June 24, 2019.

<sup>4</sup> Martin Hilbert, "The End Justifies the Definition: The Manifold Outlooks on the Digital Divide and Their Practical Usefulness for Policy-Making," *Telecommunications Policy* 35, no. 8 (2011): 715-736. <https://doi.org/10.1016/j.telpol.2011.06.012>

<sup>5</sup> "Economic Barriers to Information Access: An Interpretation of the *Library Bill of Rights*," adopted June 30, 1993, by the ALA Council and amended June 25, 2019.

<sup>6</sup> "Internet Filtering: An Interpretation of the *Library Bill of Rights*," adopted June 30, 2015, by the ALA Council.

<sup>7</sup> "If some libraries do not have the capacity to unblock specific Web sites or to disable the filter or if it is shown that an adult user's election to view constitutionally protected Internet material is burdened in some other substantial way, that would be the subject for an as-applied challenge, not the facial challenge made in this case." *United States, et al. v. American Library Association*, 539 U.S. 194 (2003) (Justice Kennedy, concurring).

Adopted January 24, 1996 by the ALA Council; amended January 19, 2005; July 15, 2009 *under previous name* "Access to Digital Information, Services, and Networks"; and June 25, 2019.

References to cited policies have been updated on November 6, 2018.

SCPLD Board adopted: June 12, 2002.