

Preparing for a First Amendment Audit

NHLTA Annual Conference – May 10, 2022

What do your library's policies/town policies allow or require?

- **Revisit your library's behavior policies, social media policies, and any rules/policies concerning photography/filming.** When was the last time these policies were reviewed/revised? If more than a year ago, best practice is to review/revise now.
- **What policies are in place at your town level? Has there been discussion at the town level (Town manager/administrator and/or other department heads) regarding First Amendment Audits?** Town Clerks or Assessors are usually the first target, so at minimum a conversation about how they plan to handle a visit would be useful so that at least two town departments are on the same page.
- **Does your library need to develop a new policy or make improvements to an existing policy?** If so, make sure that the document is reviewed by the library's attorney or town attorney – whomever is going to represent the library in court if an auditor files a lawsuit. For most public libraries in NH, the town attorney would represent the library as the municipal attorney (if the library is a town department funded with town taxpayer dollars).
- **Share your policies with others outside of the library** – town department heads, Boards of Selectmen, etc. Make sure these policies are posted as downloadable pdf documents on the library web site so they are easy to find by the public and your staff. Just knowing that these policies exist and have been recently reviewed/revised can go a long way toward easing staff angst and public questions.

What can you do for your library staff/facility to prepare for an audit?

- **Conduct a walk-through of your facility** to ensure that non-public spaces are clearly identified and secure (signs such as “employees only” or “restricted area – authorized personnel only” are usual)
- **Consider your relationship with local law enforcement ahead of time.** Should you have a meeting with them to discuss your policies and how they might respond? Is a larger meeting with beat police officers and your staff warranted for a discussion so everyone is on the same page?
- **Go over key policies with public-facing staff** – which might mean all of your staff if you are a small library. Consider role-playing exercises to practice how to respond:
 - Don't over-react. Stay calm and treat an auditor with respect like any other patron
 - Emphasize the importance of applying policies consistently to all people
 - Ask staff not to intervene or engage with an auditor unless the auditor is violating behavior policies or harassing library staff/patrons

Additional Resources to Consider/Use

- Understand the legal grounds for interacting with auditors (see 10/2019 blog post by Deborah Caldwell Stone, <https://www.oif.ala.org/oif/auditing-the-first-amendment-at-your-public-library/>)
- Consider ALA Intellectual Freedom Committee's [Video Surveillance in the Library Guidelines \(2020\)](#), which can be useful for revising patron behavior policies or stand-alone policies dealing with photography/filming in the library
- Gather a broader understanding of the First Amendment and its relationship to public libraries through ALA resources: [First Amendment and Censorship | Advocacy, Legislation & Issues \(ala.org\)](#)
- Conduct an Internet search for First Amendment Audits in NH posted on YouTube to see the interactions from the auditor perspective and what they are trying to do.

Preparing for a Book/Program Challenge

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Best Practices – Library Policies & Preparation

- **These four policies are key to have in place BEFORE a challenge occurs:**
 - Collection Development Policy
 - Request for Reconsideration of Materials/Programs policy, procedure, and form (can be part of Collection Development policy or can be a stand-alone policy)
 - Circulation Policy
 - Patron Behavior Policy
- **Additional policies to consider creating/revising**
 - Crisis Communications Plan
 - Display/Exhibits Policy
 - Unattended Children Policy
- **Specific things to consider regarding reconsideration policies:**
 - A multi-tiered process is best (example: first tier is director; second is board of trustees) so that there is an appeal process built in
 - Make sure to include a clear timeline for the whole process in the policy document
- **All of these policies should be reviewed/revised once per year.** Consider using an overall policy matrix spreadsheet to keep track of policies and when they need to be reviewed by a Board of Trustees
- **If revisions to a policy are made, or a new one created, make sure an attorney that would represent the library in a court of law reviews these policies BEFORE they are approved by the Board of Trustees**
- **COMMUNICATE your policies to stakeholders.** Make sure these policies are easily available on your web site as pdf downloads and at your circulation desk in physical format (especially the forms)

Best Practices – Dealing with a Challenge

- Inform staff, trustees, city/town attorney about the challenge as soon as possible
- Make sure that the policies in place are being followed to the letter
- Create written talking points for all staff and trustees
- Advise key staff to lock down any personal social media accounts
- Not every social media comment needs a response – remember, these challenges are not personal
- Check in regularly with staff; over-communication is better than too little
- Learn where the touchpoints are – where are staff/Trustees/Friends hearing about the challenge and getting questions or being “confronted”
- Determine who your other supporters are and bring them into the communication loop
- Don’t take anything about the situation personally

Additional Resources to Consider/Use

Many resources and policy samples from libraries can be found on the [NHSL LibGuide - Censorship Guidance & Resources](#)