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In the Public Library



STLS

Southern Tier Library System
Connecting Community Libraries

Meeting Rooms - Bulletin Boards - Display Cases Considerations

SUMMARY

When the library opens its space to the community for public expression, in addition to the library's traditional function as a place to receive information, policies must be drafted to conform to our nation's current application of the First Amendment in designated public forums.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

POLICY ACTIVITY

Using the following considerations, draft a policy for your Meeting Room(s), Bulletin Board(s), and/or Display Case(s). Make it local and make it a reflection of your mission.

POLICY & PROCEDURE CONSIDERATIONS

The only legal consideration of drafting a meeting room policy is the First Amendment and its interpretations. There is no requirement that the library open any part of its meeting or display space for community use and once it is open, there is no requirement that it remain open. Once it is open, the expression of First Amendment protected speech should have no limitations that are not absolutely necessary for the balancing of the civic space.

Don't include in policy:

- Reference to the content (what will be talked about, subjects discussed or displayed) of the meeting or display
- Arbitrary distinctions - every limitation on the use of your meeting room must have a "compelling government interest" argument. If policy limits by hours of operation, it is because of limited staffing. If the policy doesn't allow amplified sound, it is because that would disrupt the access to information of other people in the library.

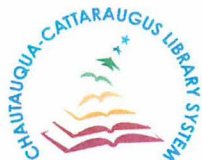
Do include in policy:

- What is not protected speech, thereby clarifying use:
 - Advocacy of illegal action (see Brandenburg Test in Resources)
 - Misleading commercial speech
 - Obscenity
 - Commercial speech (if there is a compelling government interest in limiting it, like, the library community has so many non-profits and community groups that need a meeting space that the resource is too scarce to open it up to commercial interests.)
- Reasoning for each limitation that is objective in nature and reflect a true need in the interest of library functions.
- Reference the full room reservation cycle process, which would include sign up, notification of approval/disapproval and the appeal process if rejected.

DEFINITIONS

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Meeting Room - For the purposes of this guidance, when the term Meeting Room is used, the guidance also applies to bulletin boards and display cases that are open to use by non-library groups.

Government Interest - Even Free Association libraries are considered government entities in actions and policies around public forums. When government is used in guidance, it is referring to the library and its governing board.

Traditional Public Forum - The First Amendment allows for open public expression on any topic, regardless of controversy and vitriol, in space that is widely acknowledged as held in common by the public: parks, street corners are common examples.

Designated Public Forum - A designated public forum is space where the First Amendment rights of free expression and inquiry are protected with limits that respect broad community and civic use interests. This means, that while protected speech may be expressed and accessed in a designated public forum, the way in which it is expressed and accessed can be limited if there is an unavoidable need to limit it based on scarcity of resources and to balance conflicting uses. The courts have held that public libraries are *designated public forums for the receipt of information*. If a meeting room, community space, bulletin board, display case, theater, etc. has been said in policy or through practice to be open for non-library specific use, than that space is a *designated public forum for expression*. Just like patron behavior policies balancing the needs of diverse community members wanting to access information, meeting room policy must balance the needs of the library and all the populations it serves.

Establishment Clause - "Congress shall make no law respecting an establishment of religion" has been interpreted to mean that no government agency can act in such a way that one religious belief is held in greater esteem than any other. The clause has led many libraries to fear having any religious activity in their libraries, as publicly funded entities. As long as the library shows no favoritism or entanglement with one religion or belief, the establishment clause has not been violated.

Free Exercise Clause - "Congress shall make no law ... prohibiting the free exercise [of religion]" has been interpreted to mean that the government can not stop anyone from practicing freely the rites and beliefs of their religion.

ALA GUIDANCE

Meeting Rooms: An Interpretation of the Library Bill of Rights

Many libraries provide meeting rooms for individuals and groups as part of a program of service. Article VI of the [Library Bill of Rights](#) states that such facilities should be made available to the public served by the given library "on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use."

Libraries maintaining meeting room facilities should develop and publish policy statements governing use. These statements can properly define time, place, or manner of use; such qualifications should not

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pertain to the content of a meeting or to the beliefs or affiliations of the sponsors. These statements should be made available in any commonly used language within the community served.

If meeting rooms in libraries supported by public funds are made available to the general public for non-library sponsored events, the library may not exclude any group based on the subject matter to be discussed or based on the ideas that the group advocates. For example, if a library allows charities and sports clubs to discuss their activities in library meeting rooms, then the library should not exclude partisan political or religious groups from discussing their activities in the same facilities. If a library opens its meeting rooms to a wide variety of civic organizations, then the library may not deny access to a religious organization. Libraries may wish to post a permanent notice near the meeting room stating that the library does not advocate or endorse the viewpoints of meetings or meeting room users.

Written policies for meeting room use should be stated in inclusive rather than exclusive terms. For example, a policy that the library's facilities are open "to organizations engaged in educational, cultural, intellectual, or charitable activities" is an inclusive statement of the limited uses to which the facilities may be put. This defined limitation would permit religious groups to use the facilities because they engage in intellectual activities, but would exclude most commercial uses of the facility.

A publicly supported library may limit use of its meeting rooms to strictly "library-related" activities, provided that the limitation is clearly circumscribed and is viewpoint neutral.

Written policies may include limitations on frequency of use, and whether or not meetings held in library meeting rooms must be open to the public. If state and local laws permit private as well as public sessions of meetings in libraries, libraries may choose to offer both options. The same standard should be applicable to all.

If meetings are open to the public, libraries should include in their meeting room policy statement a section that addresses admission fees. If admission fees are permitted, libraries shall seek to make it possible that these fees do not limit access to individuals who may be unable to pay, but who wish to attend the meeting. Article V of the *Library Bill of Rights* states that "a person's right to use a library should not be denied or abridged because of origin, age, background, or views." It is inconsistent with Article V to restrict indirectly access to library meeting rooms based on an individual's or group's ability to pay for that access.

Religion & Meeting Rooms - An ALA Q&A

Should library policy allow religious groups to use library meeting rooms?

Yes. Courts have consistently held that libraries may not exclude religious groups from their meeting rooms solely because the group is religious in character or because the meeting may include religious activities. Many precedents exist for the use of public facilities (e.g., school auditoriums or park pavilions) by all types of community groups, including religious groups for religious purposes. Courts

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that have considered the question have consistently held that libraries are limited public forums for the receipt of information. In turn libraries may designate areas within their facilities as limited public forums for community use in the exchange of information and may create rules for their use. As with collections, these rules should be content-neutral and address only behavioral restrictions (time, place and manner). Consistency is crucial: all groups should be treated the same and subject to the same rules, such as rental fees, frequency restrictions, noise policies or food bans.

What if a religious group wants to collect money as part of their meeting?

The same policies regarding money should apply to all groups. If nonprofit groups are allowed to collect membership dues during meetings, then religious groups may collect an offering. If no group may collect money for any purpose while using a library meeting room, then collecting an offering should not be permitted.

Should food and beverages, including sacramental items, be permitted?

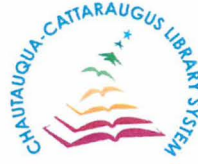
Again, the same policies about food and beverages should apply to all groups. If alcohol is not permitted for any group, then the use of sacramental wine would not be allowed; however, it would be wise to avoid rules that, even though unintentional, privilege one religion over another. For instance, the Catholic Mass and the Jewish Seder include the use of wine while many but not all Protestant groups use grape juice in their observance of the Eucharist. Any fees related to cleaning services should apply equally.

May libraries prohibit worship services?

The safest course of action is to provide the same access and apply the same rules of use (time, place and manner) to all community groups. No court has ever ruled that a library must exclude religious groups or religious worship. Only one case has addressed the "worship" question. In *Faith Center Church Evangelistic Ministries v. Glover*, the Ninth Circuit Court of Appeals held that the Contra Costa, California, library could exclude worship services from its meeting rooms when a group self-identified its meeting as a worship service. In doing so, the Ninth Circuit cautioned that the library could not prohibit groups from engaging in other religious activities, including reading, Bible discussions, Bible instruction, praying, singing, sharing testimony, and discussing political or social issues. The Ninth Circuit then asked the trial court to determine if Contra Costa could apply its policy without violating the Establishment Clause by requiring library staff to decide whether a particular religious activity was worship. On remand the trial court ruled that Contra Costa's policy required library staff to determine whether the proposed use of the meeting room constituted a worship service, a violation of the Establishment Clause. The trial court permanently enjoined the Contra Costa library from enforcing its ban on worship services. For additional information, see Deborah Caldwell-Stone, "Supreme Court Refuses To Review Library Meeting Room Policy Denying Access to Groups Conducting Religious Worship" and "Court Prohibits Library's Practice of Prohibiting Religious Activities In Meeting Rooms."

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Is a hymn sing permissible?

All groups should be subject to the same policies regarding noise. For instance, if a meeting room were soundproofed, there would be no reason to prohibit a hymn sing or, for that matter, a workshop for local rock music percussionists.

What should be considered when drafting a meeting room policy?

In general, the following areas should be covered:

- Restrictions on length of meetings
 - Frequency of using a room (e.g., no more than once a week/month)
 - Rental fees for room or use of equipment
 - Costs for cleaning if food or beverages are allowed
 - Noise policies
 - Consequences of not following policies
 - An appeals procedure
- Above all, policies should be applied equally to all groups.

Religion & Meeting Rooms - An ALA Q&A: EXHIBITS & DISPLAYS

Should religious groups be allowed to use library exhibit or display space?

Libraries are not required to open display or exhibit space to community groups. If libraries choose to open their exhibit and display space to community groups, space should be provided on an equitable basis to all groups that request it, regardless of the beliefs or affiliations of individuals or groups requesting their use. A library may wish to consider the amount of such space and its location when deciding whether to open it to community groups. Article II of the Library Bill of Rights states, "Materials should not be excluded because of the origin, background, or views of those contributing to their creation" and "Materials should not be proscribed or removed because of partisan or doctrinal disapproval." For additional details, see "Exhibit Spaces and Bulletin Boards: An Interpretation of the Library Bill of Rights."

What practical advice can be given for writing exhibit or display space policies?

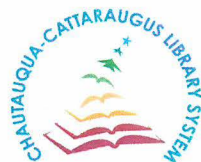
"Exhibit Spaces and Bulletin Boards: An Interpretation of the Library Bill of Rights" states:

Written policies for exhibit space use should be stated in inclusive rather than exclusive terms. For example, a policy that the library's exhibit space is open "to organizations engaged in educational, cultural, intellectual, or charitable activities" is an inclusive statement of the limited uses of the exhibit space. This defined limitation would permit religious groups to use the exhibit space because they engage in intellectual activities, but would exclude most commercial uses of the exhibit space.

Some of the considerations that may be included in writing policies are:

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- Rules or guidelines of the governing body (school board, library trustees, etc.)
- How often a group may use display or exhibit space
- The length of time for a display
- The kind of materials that may be displayed and any limits on the library's liability
- Whether the library will require or give priority to display requests that highlight the library collection(s)
- Whether the library will require or give priority to display requests that are aimed at the library's primary constituency
- Whether the library will allow notices soliciting funds, announcing meeting times, or giving contact information for the sponsoring group
- Whether to require that displays be viewpoint-neutral, educational, or informative
- Whether to prohibit single-holiday displays (allowing displays of all holidays or observations of the season or of the month) and
- Giving the library the right to refuse displays and providing due process for appeals of decisions.

CASE LAW

Religious Service in the Public Library Meeting Room

Faith Center Church Evangelistic Ministries v. Glover

ALA guidance often points out this case because it is the most detailed (and dynamic) set of decisions on meeting room policy as it specifically pertains to religious service in public library meeting rooms. The most recent decision states that by including language in the policy that distinguishes between different kinds of meeting content (religious service vs. business meeting), the policy requires library staff to have special knowledge of the practices and religious activities of a specific religion (the one requesting meeting room use), therefore requiring library staff to entangle themselves in the religion.

Take away: Don't include policy language on the content of of the meeting by making distinctions between different kinds of protected speech.

(Multiple decision documents on this case:

https://scholar.google.com/scholar?scidkt=2347464737354081840&as_sdt=2&hl=en)

RESOURCES

Brandenburg test - Standard established in [Brandenburg v. Ohio](#), 395 US 444 (1969), to determine when inflammatory speech intending to advocate illegal action can be restricted. The standard developed determined that speech advocating the use of force or crime could only be proscribed where two conditions were satisfied: (1) the advocacy is "directed to inciting or producing imminent lawless action," and (2) the advocacy is also "likely to incite or produce such action."

(https://www.law.cornell.edu/wex/brandenburg_test)

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SAMPLES

"Meeting Room Policy" policy from Albany Public Library

Albany Public Library maintains meeting room space for use by non-profit community groups, associations, and agencies when such space is not being used for library sponsored programming. The library endorses the principles adopted by the American Library Association in the Library Bill of Rights regarding meeting room use which state, "Libraries which maintain meeting rooms, exhibit space, or other facilities open to the public should make them available on equal terms to all persons, regardless of their beliefs or affiliations." Authorization to use meeting rooms does not constitute an endorsement by the library of a group or organization's positions or beliefs.

Albany Public Library makes its spaces available on equal terms to all qualified groups subject to the regulations below:

All meetings must be free and open to the public. Unless specifically approved by the Library Administration, no fees, dues or donations may be charged or solicited for any program.

Meeting rooms may not be used for commercial and/or for-profit purposes, including investment seminars, sales/service demonstrations, programs by private for-profit health care representatives, etc.

Library sponsored programs take priority over all other meeting room reservations. The library reserves the right to cancel meeting room reservations at any time in the event of a conflict with a library sponsored program. In these instances the organization's contact person will be informed and every effort will be made to arrange alternate space for the displaced program. The library is not responsible for notifying group members of a cancellation or advertising a change in the meeting room schedule.

Programs may not disrupt the use of the library by others. All persons using the meeting rooms are subject to all library rules and regulations. Meeting rooms may be used for performance or rehearsal of dramatic, musical, or theatrical productions, etc. as long as the specific activity does not disrupt other library activities.

All groups using the meeting rooms are expected to leave the facilities in a clean and orderly condition and are responsible for damage to library property. The library shall charge the group or organization if housekeeping or maintenance service is necessary. The minimum charge will be \$25.

Meetings may not be scheduled to begin until 30 minutes after the library opens (i.e. 9:30am when the library opens at 9:00am) and meetings must end 30 minutes prior to library closing to ensure sufficient time to vacate the building. In the case of after hours reservations (see below) meetings must end no later than 10:00pm.

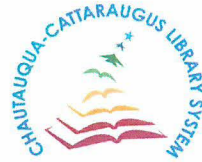
To encourage the use of its meeting rooms for diverse events and to give all qualified groups access to this service, no group may reserve meeting rooms more than three (3) months in advance and no group may book a meeting room more than twelve (12) times in a twelve month period.

The library shall not assume responsibility for the security of items brought into the meeting rooms. The library will not provide storage of material or equipment for a group or organization.

Alcohol and tobacco products are not permitted in the meeting rooms. No open flames or candles may be used in the meeting rooms.

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Neither the name nor address of any Albany Public Library location may be used as the address or headquarters of a group or organization.

The library reserves the right to review all material distributed at meetings and to approve any signage to be displayed on library property.

Meeting rooms must be reserved by an adult (18 years of age or older). Persons bringing children to meetings must assume responsibility for their care and behavior.

The library reserves the right to determine the number of events that will be held simultaneously at its facilities. Failure to comply with these regulations may result in the suspension of a group's meeting room privileges. Library sponsored or co-sponsored events may be exempt from some of the above regulations at the discretion of the Library Administration.

Room Set-up

The library staff will not be responsible for room set up or rearranging furniture or equipment in advance of a meeting. Organizations will be responsible for room set-up and must return the room to the original arrangement at the completion of the meeting. Failure to comply may result in the suspension of a group's meeting room privileges. Light refreshments may be served only in those meeting rooms equipped with kitchen facilities. The organization is responsible for supplying all utensils and equipment and will be responsible for immediate clean up of the meeting room and the kitchen. All refuse from events serving food or drink must be removed from the building and premises by the organization at the completion of the meeting. The library shall charge the group or organization if housekeeping or maintenance service is necessary. The minimum charge will be \$25. Additionally, failure to comply may result in the suspension of a group's meeting room privileges.

Audio-Visual Equipment Use

Requests for audio visual equipment must be made at the time the room is reserved. The suite of equipment available at each location may vary – organizations should verify what is available at a specific location at the time the room is reserved. Library staff will not serve as operators for the equipment, but will provide simple written instructions for equipment use. DVD's, videotapes, etc. are protected by copyright laws and, unless designated as public domain material or accompanied by Public Performance Rights, cannot be shown in any library meeting room.

After Hours Use (Pine Hills, Delaware, Bach, Howe, and Arbor Hill/West Hill Branches ONLY)

The library locations listed above can accommodate after hours use of the community meeting rooms. All of the rules detailed in the above policy are in effect for after hours use. In addition, the following limitations are in effect for all after hours reservations:

After hours reservations will be accepted for Monday-Thursday evenings.

Meetings must end no later than 10:00pm.

After hours meeting room reservations **MUST BE MADE WITH THE LIBRARY AT LEAST 14 CALENDAR DAYS IN ADVANCE OF THE USE DATE.**

Library policies are posted on the Albany Public Library web site (www.albanypubliclibrary.org) and are available upon request. Requests should be directed to: Executive Director, Albany Public Library, 161 Washington Avenue, Albany, New York, 12210, (518) 427-4300.