

Creating Meeting Room and Display Policies



Disclaimer

NOTE: This summary is meant only to provide a general overview of the new legislation in relation to the possible effect on Library operations. It is **NOT** meant as a legal opinion or legal advice. Libraries should consult their attorneys for information, clarification or advice regarding how the law may affect their specific situations.



WHAT WE WILL DISCUSS

WHY Have Policies

WHAT Makes This Issue So Difficult?

WHAT is a Limited Public Forum?

How Libraries Can Craft Policies That Work For Their Libraries.

What Libraries Shouldn't Do.



WHY?



- As community gathering places and as information centers, libraries are considered “safe” spaces for all manner of ideas and opinions.
- Diverse and controversial opinions included
- American societal and cultural trends are shifting towards a more contentious and confrontational model of discourse with all sides of issues tending towards speech that is less conciliatory.
- Good WRITTEN, POSTED policies are essential tools in maintaining a safe, welcoming environment in the library that protects patrons and staff while preserving the rights of everyone.



Creating Valid, Workable Policies

- Legal
- Enforceable
 - Notice
 - Reasonable and logical penalties
 - Due process
 - Appeal
 - Procedure
 - Willing to enforce
- Content-Neutral
 - Consistent application, implementation, enforcement
- Relevant
 - Policy prevents undesired behavior/outcome
- Clear
 - Easy to understand for users and staff
 - Infractions are easily known (no ambiguous or subjective language)



What's so hard about that?



“The trouble with free speech is that it insists on living up to its name.”

— Jonathan Yardley

As governmental entities, and a public spaces, public libraries have been determined by courts to be **LIMITED PUBLIC FORUMS** with regards to restrictions on speech*

* (“Speech” = discourse, meetings, displays, opportunity to use public space to air views, opinions, advocate, etc.)



And now, a word from a sponsor

“The public forum doctrine is an analytical tool used in First Amendment jurisprudence to determine the constitutionality of speech restrictions implemented on government property.”

<https://www.mtsu.edu/first-amendment/article/824/public-forum-doctrine>



- Traditional, or quintessential, public forums
 - Spaces traditionally devoted to assembly & debate - Streets, public parks, etc.
- Limited, or designated, public forums
 - Spaces opened for expressive activity - Schools, Libraries, Government buildings
- Nonpublic forums.
 - Government areas not “by tradition or designation a forum for public communication.” – offices, mail systems, etc.

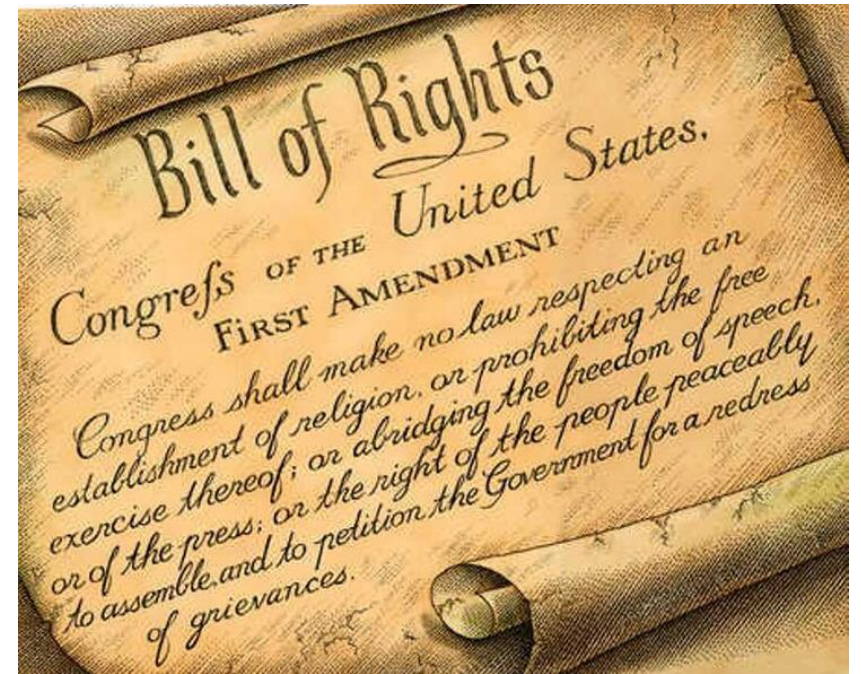


Limited Public Forums

- Reasonable time, place and manner regulations are permissible, and a content-based prohibition must be narrowly drawn to effectuate a compelling state interest.

CAN:

- Regulate Use of the property
 - HOW
 - PURPOSE
- Regulate access to the property
 - WHEN
 - HOW LONG
 - BY PATRON STATUS/ADDRESS
- Charge fees for use
 - Maintenance
 - Added services (equipment, etc)



Limited Public Forums

CAN'T

- Regulate CONTENT
- Regulate VIEWS
- Regulate by GROUP
- Regulate by FEAR/SECURITY RISK*



BUT

CAN CONSIDER:

- Effect of use on normal library operations (ie noise, crowds).
- Effect with respect to other laws (ie obscenity, copyright, building & fire codes, privacy laws).



Meeting Room Policy

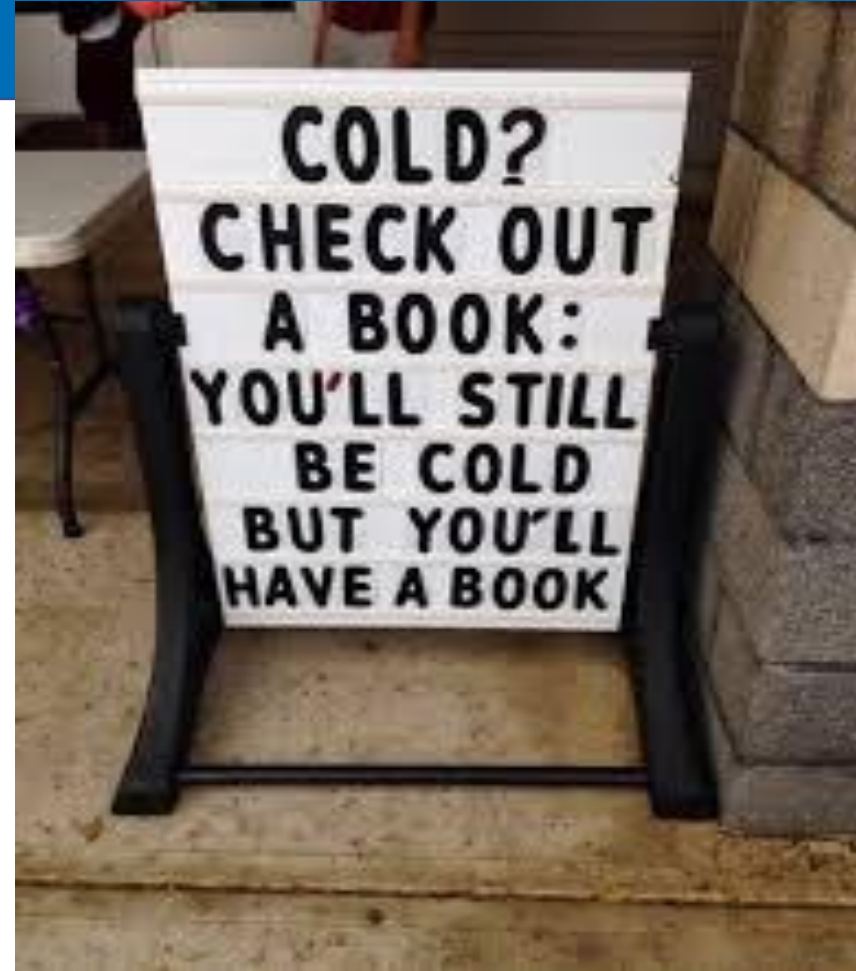
Things to consider:

- Intent of Room (Donor restrictions?)
- Scheduling
- Library's need for room?
 - Friends group
 - Board?
- Food & Beverages?
- Use after or outside of Library Hours?
 - Insurance?
- Equipment available?
- Cleaning?
- Furniture rearranging?



Displays

- Public participation?
 - Who creates displays?
 - If public – vetting process?
- Library mission
- Copyright
- Library Clientele
 - Age-appropriate
- Security/Insurance



Elephant in the room

- Do I have to let Hate Groups or Controversial Groups use our meeting rooms?

If your policy opens the room to use by the public, yes.

However, your policy can limit :

The amount of time for which the group can use the room

The number of times a group can use the room per year

The noise generated by a group

Sales or fundraising

Use by patrons (residents in library's legal/contractual service area)



“Fighting Words”



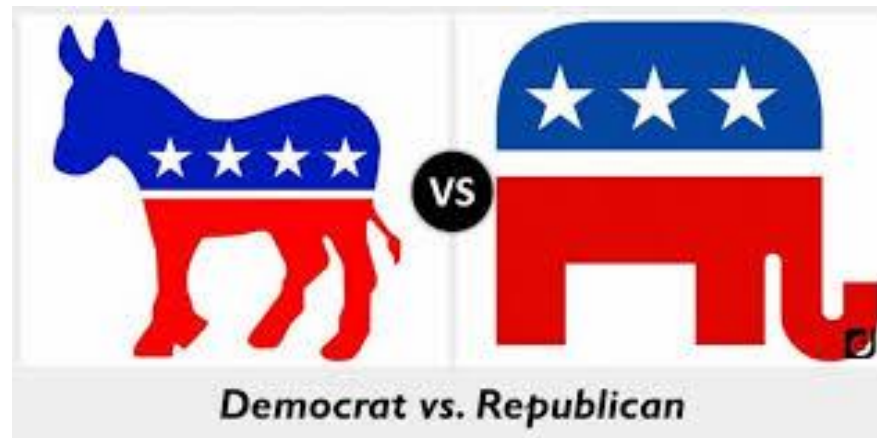
- “Security Concerns” are not necessarily a valid reason to deny a group use of the room. White Supremacist groups & anti-abortion groups have sued libraries and won on this. The courts generally consider public safety the concern of the police and not libraries. Demonstrations and large crowds are not a reason to deny use.
- However, if direct threats are made, or a speaker incites (or has a documented history of inciting) violence by using direct language (“Let’s go remove immigrants from this library,” vs “ Immigrants don’t belong in this town.”) those “fighting words” are reason to deny. BUT- seek Legal counsel before acting on this.



Political Groups?

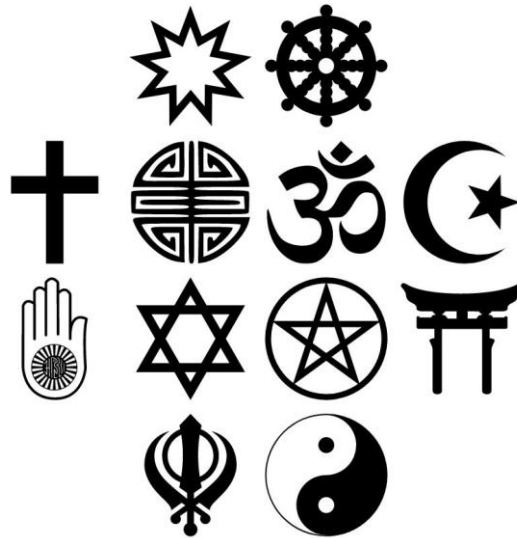
Maybe. As long as limitation is on Political Party meetings and not on partisan issues. However, this is a very grey area.

If library does open room to political group, must do so to all political groups.



Religious Groups

Yes – if room is open for use by public – must accept religious groups.
Can maybe limit display of explicit material (ex – abortion)



Options

- Limit number of uses per year/month
- Limit sales/commercial activity/restrict use
- Require advance notice
- Consider fees (for groups over a specific number or using particular equipment, or bringing in food,).
- Require local contact or library user must reserve
- Prohibit “leafletting.”



Beware Those Unintended Consequences

- **EVERYONE** must follow established policy
 - Including Library Friends
 - Including the Library Board
 - Including Staff/Director/Board pet projects/charities/clubs
 - Including the Library
 - If room is used for Summer Reading, etc.



OTHER CONSIDERATIONS

- TRAINING
 - Communication
- REVISION/CURRENCY
- CONSISTENT ENFORCEMENT
 - Board
 - Staff
 - Friends
 - Municipality
 - Favorite Patrons
- PROCEDURE
 - HOW
 - Documentation



“Because if you
don't stand up
for the stuff you
don't like, when
they come for
the stuff you do
like, you've
already lost.”
— Neil Gaiman



<https://ontarianlibrarian.com/2015/12/22/marvel-vs-dc-graphic-novel-display/>



LIBRARY OF MICHIGAN

Thanks!

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