



COMBATTING CENSORSHIP IN LIBRARIES

The Role of Case Law and Precedent in Defending Intellectual Freedom



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ABSTRACT

This project observes the legal precedents set by two Supreme Court cases in regard to censorship in libraries, and their implications for combatting the growing calls for restriction. In response to continued attempts to restrict library materials, and the emergence of a significant volume of legislation at the state and federal level, it is absolutely vital for librarians and patrons alike to understand the legal precedent that has already been set. *Board of Education v. Pico* reaffirms the student's "right to receive information," establishing the foundation on which school libraries have been able to resist book banning attempts for the past forty years. *United States v. American Library Association* reaffirms Congress' authority to provide stipulations to funding that it allocates, thus allowing for the requirement of libraries to restrict access to obscene materials per CIPA regulations. In observing these court cases and the precedents that they set, a legal basis is outlined by which libraries may seek to further defend their patrons' freedoms of information and ideas, per the ALA's *Library Bill of Rights*.

RESEARCH QUESTIONS

- How have the Supreme Court decisions of *Island Trees School District v. Pico* and the *United States v. the American Library Association* directly impacted the way that libraries are able to defend and maintain their holdings?
- What legal precedents can be used by librarians to defend their patron's rights to free expression and access to ideas in a court of law?
- What legal precedents directly limit the ability of libraries to fight censorship, and how can librarians navigate those challenges to mitigate the impact of them on library patrons?
- What potential avenues are there for librarians to secure further protections for free speech and access to information through judicial or legislative means?

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LITERATURE REVIEW

- Supreme Court precedent establishes a crucial distinction between "content-based regulations" and "content-neutral regulations," recognizing the potential for repression of free speech. FL HB 1467 (2022) constitutes a content-based regulation, as it explicitly relies on the content of library materials (Li, 2024).
- *Island Trees v. Pico* decision further solidified inherent protections for freedom of information and ideas in school library spaces through the affirmation of students' rights to receive information. This decision set a precedent that acts as a significant legal barrier, enabling libraries to safeguard the protection of their users' freedoms of information and ideas (Munic, 1983).
- *US v. ALA* decision limits the ability of libraries, specifically ones that receive federal funding, to provide unfettered access to information. While CIPA aims to protect children, it and the wording of the court decision leave room for further restriction of libraries (Rehnquist & Supreme Court of The United States, 2002).
- *US v. ALA* decision rests on the definition of libraries as "limited public forums" in accordance with the public forum doctrine. This contentious designation implies that "public library activities are different from other speech activities and are subject to the managerial authority of the government" (Gathegi, 2005).

JUDICIAL PRECEDENT

Island Trees School District v. Pico

- Rejected the argument of the School Board that certain materials should be removed from the school library due to being "anti-American, anti-Christian, anti-Semit[i]c, and just plain filthy."
- The First Amendment limits the ability of the School Board to exercise discretion in removing materials from school libraries.
- "Petitioners possess significant discretion to determine the content of their school libraries, but that discretion may not be exercised in a narrowly partisan or political manner."
- Upholds students' "right to receive information."

United States v. American Library Association

- Rejected the argument of the ALA that requiring public libraries to implement internet filtering software per CIPA is a breach of patrons' First Amendment rights.
- "Congress has wide latitude to attach conditions to the receipt of federal assistance to further its policy objectives... but may not 'induce' the recipient 'to engage in activities that would themselves be unconstitutional.'
- Solidifies libraries as a "limited public forum," thus subjecting library spaces to government discretion with regard to free speech.

TAKING ACTION

- Libraries continue to face scrutiny in public and legal forums; this has only been amplified in recent years. Librarians should be aware of the legal precedents established outlining protections and limitations for facilitating access to materials. In doing this, they will be able operate more effectively within those constraints and be better equipped to advocate in future scenarios.
- Educating themselves on legal precedent regarding censorship provides librarians with vital information about how to properly combat potential restrictions to library materials and services. Establishing professional roles dedicated to advocating for libraries on a legal basis further solidifies the resilience of libraries.
- Librarians can further promote intellectual freedom and resist censorship by consulting and working with local, state, and national advocacy groups aligned with the mission of libraries. By working with these groups, librarians will build awareness among the general population and put pressure on representatives to pass reasonable legislation aligned with the values outlined in the ALA's *Bill of Rights* and the freedoms that have been constitutionally established and upheld (2019).