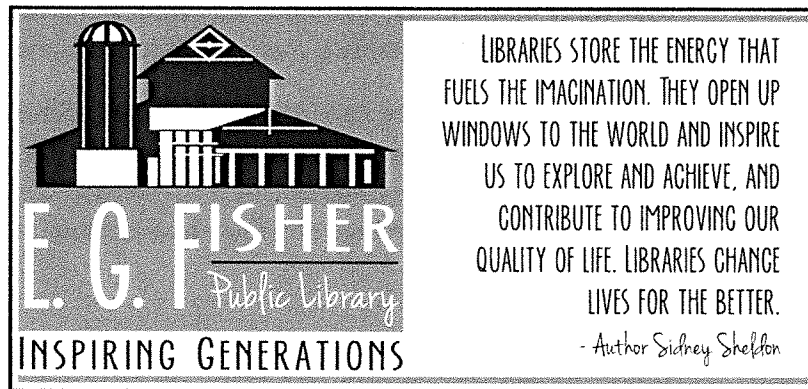


E.G. Fisher Public Library

Internet Policy



Internet Policy

Introduction

The McMinn County Library Board establishes this Library Internet Policy to ensure appropriate use of Internet resources within the library.

The Library provides workstations for free public access to the Internet as an informational, education and recreational resource. The Library expects that all use of electronic information resources such as the Internet will be responsible and ethical, consistent with the purpose for which these resources are provided. Potential users must agree to follow the policy guidelines outlined below:

Disclaimer

The Library offers links to a wide range of useful and interesting sites through its web site. Some Internet sites found through search engines may contain inaccurate, incomplete, outdated, indecent, controversial or offensive material.

The Library does not and may not monitor, control, or provide barriers to such material and cannot be held responsible for its content. We firmly believe that the valuable information available on this world-wide network far outweighs the possibility that users may come across material that is not consistent with the goals of the Library. Selection policies that serve to govern a library's purchase of written material may not apply to material accessed electronically.

Responsibilities

The Library provides Internet access equally to all library users. Only parents or guardians — Not the library or its staff — may restrict their children — and only their own children — from access to the Internet or other library materials. We strongly encourage parents to monitor and supervise their children's Internet use. For more information on children and the Internet, please read *Child Safety on the Information Highway* (<http://www.safekids.com/>) produced by the National Center for Missing and Exploited Children and the Interactive Services Association.

Ultimately, all library users, whether children or adults, are the final selectors in using the Internet and other library materials and are responsible for their individual choices and decisions, and use these resources at their own risk.

However, the library does prohibit sending, receiving, or displaying text or graphics which are sexually explicit, pornographic, obscene or offensive in such a public setting where minor children or other library users might be unwilling exposed. The Library reserves the right to terminate any session where such material is present.

Change to: However, the library does prohibit sending, receiving, or displaying child pornography and obscene 'material which depicts nudity, sexual contact, excess violence or sado-masochistic abuse, which is harmful to minors' in such a public setting where minor children or other library users might be unwilling exposed. The Library reserves the right to terminate any session where such material is present.

Privacy and Confidentiality

In general, the Library will treat information on computers as confidential. Requests for disclosure of information regarding an individual's use will be honored only if approved by the Library Director, when authorized by the owners of the information, or when required by local, state, or federal law.

The Library staff may impose restrictions, such as time limits, on the use of library equipment. While respecting an individual user's right to privacy, library staff reserves the right to monitor use of Internet workstations to ensure compliance with the Library Internet Policy.

Guidelines for Acceptable Use

It is essential that at all times Internet users shall:

1. Obey all applicable federal, state, and local laws and regulations regarding minor's access to materials harmful to a minor.
2. Refrain from any activities which might be disruptive to other library users.
3. Refrain from the transmission or display of threatening, harassing, libelous, pornographic, or slanderous materials; in accordance with the Tennessee Code Title 39, Chapter 17, Part 9. Refrain from sending, receiving or displaying text or graphics that may be reasonably construed as obscene by community standards.

Change this to: #3 Refrain from the transmission or display of threatening, harassing, libelous, or slanderous material. [This is a constitutional issue – you can't say this, so you shouldn't email it!]. #4 In accordance with the Tennessee Code 39-17-911, refrain from sending, receiving or displaying any child pornography and obscene 'material which depicts nudity, sexual contact, excess violence or sado-masochistic abuse, which is harmful to minors'

4. Make no attempt to damage computer equipment, alter computer settings or install any software, introduce a worm or virus, or other harmful form of programming or vandalism, or participate in hacking activities or any form of unauthorized access to other computers, networks, or information systems.
5. Avoid disclosing personal information over the Internet to preserve his or her own personal safety. Library Internet users are prohibited by law from disclosing, using, or disseminating personal information regarding minors without written authorization of the parent or legal guardian of the minor(s) involved. Internet users are prohibited from using the library computers to compromise the safety and security of minors when using email, chat rooms, social networking sites, and other forms of direct electronic communications. Such use includes, but is not limited to: giving others private information about one's self or others or arranging a face-to-face meeting with someone one has met on the Internet without a parent or legal guardian's permission.
6. Respect international copyright laws and honor software licensing agreements.

Conditions and Terms of Use

The patron's E.G. Fisher Public Library card must be presented at the time of signup. If a patron's library card is barred for overdue materials, the patron must clear or resolve the account before being granted access to the Internet. Patrons with a blocked card because of fines must reduce the balance of their account \$2.00 each time they request an Internet session. Patrons who have lost their library card may purchase a replacement for \$4.00.

Non-County residents who only wish to gain access to the Internet must provide documentation of their out-of-county status.

Patrons are allowed access to the Internet computers on a first come, first serve basis. The Library does not take reservations for Internet access. The user agrees to restrict his/her Internet time to one hour when others are waiting.

It is understood that minors having a library card may access the Internet with or without a parent/guardian's presence; however, the Library does encourage parents/guardians to oversee their child's Internet activity.

The Library staff is happy to assist users in accessing the Internet, each user is nevertheless responsible for his/her own search. Staff cannot provide in-depth personal training in the use of the Internet or of personal computers.

Downloading/saving to a CD or flash drive is permitted on Internet accessible computers. The Library sells CDs for \$1.50 each. Hard copies of information may be printed out at the cost of 20 cents per page. Downloading/saving to the computer hard drive is not permitted.

Filtering

Library computers accessing the Internet are filtered in compliance with the Federal Government's Child Internet Protect Act (CIPA). If a patron encounters a blocked site that he/she feels is necessary for their research, they may ask a member of the Library staff to unblock the site.

Violations

While respecting an individual user's right to privacy, Library staff reserves the right to monitor use of Internet workstations to ensure compliance with this safety policy. A user's access to the library's computer resources is a privilege, not a right. Staff may ask users to remove themselves from Library equipment if they observe any behavior which they judge to be in conflict with this policy. Misuse or abuse of Library computers or Internet access may result in loss of Internet access privileges. Repeated abuse of the Internet Safety Policy could result in loss of library privileges, being barred from the Library itself or possible criminal prosecution.

Virus Warnings

Although the Library uses a program that checks for viruses, there is no guarantee that files downloaded from the Internet will not contain a virus. The Library is not responsible for any damages that may arise from saving or downloading files to any personal device.

*Adopted October 12, 2007
Revised May 17, 2012*

Justice Women's Reasoning

Overall, I find this Internet Acceptable Use policy to be well-written. I would change some of the language to clarify and expand it to ensure its constitutionality.

The legal aspect of this conversation begins the passage of CIPA – The Children’s Information Protection Act. According to the **Texas State Library and Archives Commission**, “The Children’s Internet Protection Act (CIPA) and the Neighborhood Children’s Internet Protection Act (NCIPA) passed Congress in December of 2000. Both were part of a large federal appropriations measure (PL 106-554). The Federal Communications Commission released its regulations for CIPA and NCIPA in April 5, 2001. In March 2001 several groups, including the American Library Association (ALA) and the American Civil Liberties Union (ACLU), filed suit to prevent the enforcement of CIPA’s filtering requirement in public libraries. A trial was held in March 2002 in federal district court in Philadelphia. On May 31, 2002, the CIPA filtering mandate for public libraries was declared unconstitutional on first amendment grounds by the district court. The U.S. Justice Department appealed the district court’s decision to the U.S. Supreme Court. On June 23, 2003, the Supreme Court announced its decision to overturn the May 2002 decision and uphold the Children’s Internet Protection Act (CIPA).”

According to the **FCC**, “Schools and libraries subject to CIPA may not receive the discounts offered by the E-rate program unless they certify that they have an Internet safety policy that includes technology protection measures. The protection measures must block or filter Internet access to pictures that are: (a) obscene; (b) child pornography; or (c) harmful to minors (for computers that are accessed by minors). Before adopting this Internet safety policy, schools and libraries must provide reasonable notice and hold at least one public hearing or meeting to address the proposal.”

It is understandable that there is a healthy tension between protecting our children and protecting our First Amendment rights. And it should be noted that Internet filters often block legitimate informational sources, while allowing obscene images of all kinds through its nets. Imperfect as it is, the Library will find a way to both protect children and our patrons’ First Amendment rights.

First, it must be noted that E.G. Fisher Public Library does participate in E-rate. Therefore, the Board has a legal responsibility to block or filter specific items.

This leads us to the word “obscene.” According to the **American Library Association**, “The Supreme Court’s decision in *Miller v. California* defines obscenity as materials that ‘depict or describe patently offensive hardcore sexual conduct,’ which ‘lacks serious literary, artistic, political, or scientific value.’ To determine if a particular work is obscene, a judge or jury must apply a three-part test, popularly called the Miller test, to the work in question. The questions the judge or jury must ask include:

Whether the average person, applying “contemporary community standards,” ‘would find the work, as a whole, appeals to the prurient interest;

Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable state law; and

Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.’

Let us consider what obscenity is not.

First obscenity and nudity are not the same. As the ALA points out, “In *Jenkins v. Georgia*, the Supreme Court emphasized that ‘nudity alone is not enough to make material legally obscene under the Miller standards.’” This is very much understandable and reasonable. A dozen legitimate reasons can be given for a patron to be looking at nudity: an art student looking at Michelangelo’s *The Creation of Adam*, a nursing student studying the human anatomy, a student reading a *National Geographic* article about tribes in Brazil, a couple planning a trip to a nudist resort.

Secondly, the ALA argues that “in contrast to obscenity and child pornography, so-called ‘indecent speech’ or ‘pornography’ is fully protected by the First Amendment. In *Sable Communications of California, Inc. v. FCC*, the Supreme Court held that ‘sexual expression which is indecent but not obscene is protected by the First Amendment.’” The ALA argument that pornography is constitutionally protected is interesting, because just a few sentences later the ALA notes that “the word ‘pornography’ has no meaning in the law, and there is no agreed-upon definition for the term.” According the ALA recommends that **“when library policies and procedures address illegal speech or sexually explicit content, they should employ the more precise terminology established by the Supreme Court, such as ‘obscenity,’ or ‘child pornography, to describe and discuss the categories of content that may be restricted by the library.”**

The **State of Tennessee** gives the following legal definitions:

(10) "Obscene" means:

(A) The average person applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;

(B) The average person applying contemporary community standards would find that the work depicts or describes, in a patently offensive way, sexual conduct; and

(C) The work, taken as a whole, lacks serious literary, artistic, political, or scientific value;

(11) "Patently offensive" means that which goes substantially beyond customary limits of candor in describing or representing such matters;

(12) "Prurient interest" means a shameful or morbid interest in sex;

(14) "Sexual conduct" means:

(A) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated. A sexual act is simulated when it depicts explicit sexual activity that gives the appearance of ultimate sexual acts, anal, oral or genital. "Ultimate sexual acts" means sexual intercourse, anal or otherwise, fellatio, cunnilingus or sodomy; or

(B) Patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals; and

The **U.S. Department of Justice** notes on their website:

The U.S. Supreme Court established the test that judges and juries use to determine whether matter is obscene in three major cases: *Miller v. California*, 413 U.S. 15, 24-25 (1973); *Smith v. United States*, 431 U.S. 291, 300-02, 309 (1977); and *Pope v. Illinois*, 481 U.S. 497, 500-01 (1987). The three-pronged Miller test is as follows:

1. Whether the average person, applying contemporary adult community standards, finds that the matter, taken as a whole, appeals to prurient interests (i.e., an erotic, lascivious, abnormal, unhealthy, degrading, shameful, or morbid interest in nudity, sex, or excretion);
2. Whether the average person, applying contemporary adult community standards, finds that the matter depicts or describes sexual conduct in a patently offensive way (i.e., ultimate sexual acts, normal or perverted, actual or simulated, masturbation, excretory functions, lewd exhibition of the genitals, or sado-masochistic sexual abuse); and
3. Whether a reasonable person finds that the matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Any material that satisfies this three-pronged test may be found obscene.

Chattanooga Public Library Policy states that It is a violation of Tennessee State law to view explicit materials in the presence of minors. Customers are required to refrain from doing so when children are in the area.

Knoxville Public Library Policy simply states that patrons are not to “Display any ‘material which depicts nudity, sexual contact, excess violence or sado-masochistic abuse, and which is harmful to minors’ per the Tennessee Code 39-17-911”

E.G. Fisher’s Policy states:

3. Refrain from the transmission or display of threatening, harassing, libelous, pornographic, or slanderous materials; in accordance with the Tennessee Code Title 39, Chapter 17, Part 9. Refrain from sending, receiving or displaying text or graphics that may be reasonably construed as obscene by community standards.

and

However, the library does prohibit sending, receiving, or displaying text or graphics which are sexually explicit, pornographic, obscene or offensive in such a public setting where minor children or other library users might be unwilling exposed. The Library reserves the right to terminate any session where such material is present.

Suggested Revision

3. Refrain from the transmission or display of threatening, harassing, libelous, or slanderous material. [This is a constitutional issue – you can't say this, so you shouldn't email it!].
4. In accordance with the Tennessee Code 39-17-911, refrain from sending, receiving or displaying any child pornography and obscene 'material which depicts nudity, sexual contact, excess violence or sado-masochistic abuse, which is harmful to minors'

And

However, the library does prohibit sending, receiving, or displaying child pornography and obscene 'material which depicts nudity, sexual contact, excess violence or sado-masochistic abuse, which is harmful to minors' in such a public setting where minor children or other library users might be unwilling exposed. The Library reserves the right to terminate any session where such material is present.

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