

Youth Access to Information

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Court Cases Dealing with Youth Access to Information

Tinker v. Des Moines Independent Community School District

First Amendment protects public school students' rights to express political and social views.

Court Cases Dealing with Youth Access to Information

Board of Education, Island Trees Union

Free School District No. 26 v. Pico

Students have the right to receive ideas; schools can remove books if “educationally unsuitable” or “pervasively vulgar.”

Court Cases Dealing with Youth Access to Information

- ❑ American Amusement Machine Association, et al., v. Teri Kendrick, et al. (2001)
Need to form political views on the basis of uncensored speech before exercising franchise.
 - ❑ Case v. Unified School District No. 233 (1995)
Removal defended based on educational unsuitability, but clearly disagreed with ideas and violated their own policies
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Youth & Internet Access

Protected vs. Unprotected Speech

- *3 major court decisions defining obscenity as not protected by the First Amendment*
 - Roth v. United States, 354 U.S. 476 (1957).
 - Memoirs v. Massachusetts, 383 U.S. 413 (1966).
 - Miller v. California, 413 U.S. 15 (1973).
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Protected vs. Unprotected Speech

- Speech deemed “harmful to minors” is not protected by the First Amendment
 - A broader category of speech is “obscene” for persons under 17.
 - Would material be harmful to the oldest of minors?
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Protected vs. Unprotected Speech

- Child pornography is never protected.
 - New York v. Ferber, 458 U.S. 747 (1982).
 - Ashcroft v. Free Speech Coalition, 535 U.S. 234 (2002).
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Internet Access

- Reno v. ACLU, 521 U.S. 844 (1997).
 - Community Decency Act – unconstitutional, “vague and overbroad indecency restriction”

 - Ashcroft v. ACLU, 535 U.S. 564 (2002) (“*Ashcroft I*”); Ashcroft v. ACLU, 124 S. Ct. 2783 (2004) (“*Ashcroft II*”).
 - Child Online Protection Act
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Internet Access

- Children's Internet Protection Act (CIPA)
- Neighborhood Children's Internet Protection Act (NCIPA)

Tied receipt of federal funding to use of filters or blocking software for protection against certain visual depictions

Internet Access

- United States v. American Library Association, 539 U.S. 194 (2003).
 - ALA challenged constitutionality for public libraries
 - District court ruled unconstitutional, but Supreme Court reversed:
Librarians could unblock filters for adults upon request.
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Internet Access

- Deleting Online Predators Act (DOPA), HR 5319
 - House passed 410-15, July 26, 2006; U.S. Senate recessed until November 9, 2006.
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Every aspect of society is obvious to American youth.

Information needs of youth are diverse: in content, formats, timing. Yet they are less likely to have access because of restrictions placed by adults, limited mobility, limited income.

Youth Access Audit

- Formal policies
 - Unwritten policies
 - Formal procedures
 - Unwritten procedures
 - Signage, furniture, library layout
 - Attitudes towards youth
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Policies Relating to Youth Access

In loco parentis

- Relates to the physical safety of youth, not the intellectual environment.
 - Does not apply in the public library setting.
 - Make sure policies don't guarantee safety.
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Youth Access Audit

Major barriers

- Imposing age or grade level restrictions
 - Limiting use of ILL
 - Limiting access to electronic resources
 - Charging fees for specific formats
 - Requiring permission of teachers/parents
 - Restricted shelves or closed collections
 - Labeling
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Policies Relating to Youth Access

- DPI's Division for Libraries, Technology, and Community Learning
 - FAQs CIPA and NCIPA
<http://www.dpi.wi.gov/pld/pdf/cipafaq.pdf>
 - Sample Policies
<http://www.dpi.wi.gov/pld/policies.html>

 - ALA's Office for Intellectual Freedom
 - <http://www.ala.org/ala/oif>
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Internet Use Policies

- Clear, specific, objective
 - Posted obviously
 - Specifically prohibit access to unprotected speech/material
 - Applied consistently, objectively
 - Provide appeal mechanism
 - Alert parents to responsibilities
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Internet Use Policies

- Provide tutorials on Internet use, where feasible
 - Include procedures for disabling filters for adults when asked
 - Include procedures for disabling for minors for materials that are not obscene, child pornography or harmful to minors
 - Optional privacy measures
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