

**Report to / Rapport au:**

**Ottawa Public Library Board  
Conseil d'administration de la Bibliothèque publique d'Ottawa**

**June 14, 2022 / 14 juin 2022**

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**File Number: OPLB-2022-0601**

**SUBJECT: Intellectual Freedom**

**OBJET: Liberté intellectuelle**

**REPORT RECOMMENDATIONS**

**That the Ottawa Public Library Board:**

- 1. Receive this report for information;**
- 2. Reaffirm the governance model as it relates to intellectual freedom;**
- 3. Approve the amendments to the Intellectual Freedom Position Statement, including the new Guiding Principles, as described in this report, effective upon approval;**
- 4. Direct staff to align operations with the Intellectual Freedom Position Statement no later than April 1, 2023, as further described in this report, including:**
  - a. Filtering both wired and wireless public networks for illegal content;**
  - b. Revising administrative documents;**
  - c. Developing robust training for trustees and employees; and,**

- d. Developing a plan to continue to foster discussions about the importance of intellectual freedom in the community; and,
5. Direct staff to provide the Board with:
    - a. Status updates on implementation, along with a close-out report no later than Q3 2023; and,
    - b. Annual reporting on challenges to all aspects of intellectual freedom, as further described in this report, and to update Board Policy 010 – CEO Reporting and Board Monitoring to reflect this reporting timeline.

## RECOMMANDATIONS DU RAPPORT

Que le Conseil d'administration de la Bibliothèque publique d'Ottawa:

1. Prenne connaissance du présent rapport à titre d'information;
2. Réaffirme le modèle de gouvernance en ce qui concerne la liberté intellectuelle ;
3. Approuve les amendements à l'énoncé sur la liberté intellectuelle, y compris les nouveaux principes directeurs, tels que décrits dans le rapport, en vigueur dès leur approbation ;
4. Demande au personnel d'aligner les opérations avec l'énoncé sur la liberté intellectuelle au plus tard le 1<sup>er</sup> avril 2023, tel que décrit dans le présent rapport, notamment :
  - a. Filtrer les réseaux publics câblés et sans fil pour détecter les contenus illégaux ;
  - b. Réviser les documents administratifs ;
  - c. Développer une solide formation pour les membres du Conseil d'administration (C.A.) et les employés ; et,
  - d. Développer un plan pour continuer à favoriser les discussions sur l'importance de la liberté intellectuelle dans la communauté,
5. Demande au personnel de fournir au C.A. :

- a. **Les mises à jour sur l'état de la mise en œuvre, ainsi qu'un rapport de clôture au plus tard le troisième trimestre 2023 ; et,**
- b. **Le rapport annuel sur les défis reliés aux aspects de la liberté intellectuelle, tel que décrit dans le présent rapport, et mettre à jour la politique du C.A. 010 – « CEO Reporting and Board Monitoring » pour refléter le calendrier du présent rapport.**

## **BACKGROUND**

In keeping with the *Public Libraries Act, RSO 1990, c.P.44* (“the PLA”), other relevant statutes, laws, and good governance practices, the Ottawa Public Library (“OPL”) Board (“the Board”) is accountable for the full range of decisions affecting the organization. According to Section 15 of the PLA, the Chief Executive Officer (“CEO”) supervises and directs the operations of the public library and its staff and shall have other powers and duties that the Board assigns to them from time to time.

As per Board Policy 001 - OPLB, Roles and Responsibilities of the Board and Trustees, the Board has adopted a strategy model of governance that focuses on setting strategic directions and objectives for the organization, as outlined in OPLB Policy 002 - Delegation of Authority (“the DOA”). As part of this approach to governance, the Board approves strategic frameworks to guide staff, and prepares statements as required by legislation, or as necessary, to document the Board’s position on various matters such that staff can carry out their administrative duties.

In OPL’s Strategic Directions and Priorities 2020-2023, the value of intellectual freedom is defined as “the free and open exchange of lawful information and ideas in a democratic society, respecting individual’s rights to privacy and choice.” Intellectual freedom has been an OPL value since amalgamation; this value was re-affirmed in 2007, as part of the process to develop the Strategic Priorities 2008 – 2011, as well as in 2020.<sup>1</sup>

OPL Board Position Statements are intended to provide clarity about the Library’s position on a particular topic, to guide policies and procedures, and are reviewed once per term of Board. Other industry associations, such as the Ontario Library Association

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<sup>1</sup> OPLB Report : “Board Position Statement – Intellectual Freedom.”  
<https://app06.ottawa.ca/calendar/ottawa/citycouncil/library/2011/06-13/Doc%203%20Board%20Position%20Statement%20-%20Intellectual%20Freedom.htm>

(OLA), the Canadian Federation of Library Associations (CFLA) and the International Federation of Library Associations (IFLA) have position statements about intellectual freedom.<sup>2</sup> OPL's initial Intellectual Freedom Position Statement ("the Statement") was developed in 2011; the most recent version was approved in May 2017 (OPLB-2017-0502; Document 1 in this report). The Statement provides information about OPL's understanding of and commitment to Intellectual Freedom, and guides the development of policies, procedures, and documents relating to intellectual freedom.

In March 2018, the Board approved a Board Work Plan (OPLB-2018-0302) that included undertaking "a holistic review of the Intellectual Freedom Board Position Statement and associated administrative policies / practices (with the assistance of third parties as required), with a focus on how they interface with customers, and ensuring appropriate protocols." The objective of this project was to "safeguard the principles of Intellectual Freedom, and rights and freedoms under the Canadian Charter, while balancing the public library's role of offering a welcoming and inclusive space for OPL customers; and adhering to OPL's mission, vision, and values." The project also involved reviewing all OPL documents to align with applicable legislation, including the *Universal Declaration of Human Rights*, the *Canadian Charter of Rights and Freedoms* ("the Charter"), the *Criminal Code*, the *Ontario Human Rights Code*, the *Accessibility for Ontarians with Disabilities Act* ("the AODA"), and the *PLA*.

To support this work, an Ad hoc Committee on Intellectual Freedom ("the Committee") was created, composed of Trustees Steven Begg and Pamela Sweet. The Committee met four times in 2018.

In 2019, a new Board was appointed; Trustee Begg remained on the Committee, and Trustee Carol Anne Meehan replaced Trustee Sweet. In June 2019, a group whose meeting room booking was cancelled by OPL applied to the Ontario Superior Court of Justice for a judicial review of OPL's decision.<sup>3</sup> Staff paused work on the intellectual freedom project, pending the release of the decision in that matter.

The case was dismissed by the Divisional Court in September 2019, as the Court found that OPL's decision was not amenable to judicial review and was a matter of private

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<sup>2</sup> CFLA: <http://cfla-fcab.ca/en/guidelines-and-position-papers/statement-on-intellectual-freedom-and-libraries/>

IFLA : <https://repository.ifla.org/handle/123456789/1424>

<sup>3</sup> ACT! For Canada applied to screen a documentary critical of European immigration policies in 2017.

law; a subsequent appeal was rejected by the Court of Appeal in February 2020. Following the conclusion of that matter, OPL continued their review of policies and procedures, revised key administrative documents related to meeting room bookings, including the Meeting Room Booking Policy and Meeting Rooms Terms and Conditions, and created a checklist for managers when reviewing meeting room bookings.

In the meantime, in June 2019 the Board approved a new Strategic Plan along with specific Strategic Directions and Priorities for 2020-2023. This new plan reinforced the review by including a priority to “Strengthen the Intellectual Freedom program.”

The Committee resumed meeting in May 2021, and in early 2022 Trustee Meehan was replaced by Trustee Catherine Kitts. The Committee met four times over the last two years.

This report represents the outcome of the work since 2018 to strengthen OPL’s intellectual freedom program. The purpose of this report is to:

- Advise the Board of the processes to obtain advice (legal and peer) received as part of a review of OPL’s Intellectual Freedom program;
- Seek the Board’s approval of the revisions to the Intellectual Freedom Position Statement, which includes the addition of guiding principles;
- Advise the Board of the next steps to implement the required changes to align with the revised Statement. This includes:
  - Eliminating filtering of legal content on the Internet at the Library;
  - Revising related administrative policies and procedures;
  - Developing robust training for trustees and employees; and
  - Developing a plan to continue to foster and support intellectual freedom with trustees, staff, and customers.
- Seek the Board’s approval for an implementation date of no later than April 1, 2023, for all updated administrative changes; and,

Outline how staff will keep the Board informed throughout the implementation process, along with ongoing annual reporting to the Board on intellectual freedom challenges.

## **DISCUSSION**

Intellectual freedom has long been a foundational tenet of public library services, including at OPL. It underpins various OPL services and is threaded throughout

frameworks, policies, and procedures. Specifically, the Intellectual Freedom Position Statement is supported by a Content Services Framework (first approved by the Board in 2014, and most recently revised and approved in March 2020 [OPLB-2020-0304]). The Content Service Framework explains how materials are selected as well as how individuals can request the reconsideration of materials in the collection. In addition, the Board has delegated authority to the CEO for the following key policies which link directly to intellectual freedom:

- Public Network Access Policy, which outlines the provision of internet service through both wired and wireless networks;
- Display Space and Bulletin Board Use Policy, which outlines the provision of bulletin boards and display space for postings and exhibits of community interest; and,
- Meeting Rooms Policy, which outlines the provision of meeting spaces in OPL locations for a fee, as a community service.

Upholding intellectual freedom is an ongoing process of re-affirmation, which requires staff to regularly review and revise applicable policies, as well as engage in ongoing education and discussion with trustees, employees, and members of the community. Since the Statement was first introduced in 2003 as an administrative document, staff have made numerous revisions to it and related policies in line with legislative and social changes. For a timeline of previous revisions to these policies, please refer to Document 3 Key Revisions to Intellectual Freedom Documents.

Over the last four years, staff have reviewed all Library documents and practices relating to intellectual freedom holistically; the project was divided into three phases:

- Phase 1 (Complete): Research, legal and peer reviews;
- Phase 2 (Complete): Review of the governance model, amendments to the Statement and development of Guiding Principles; and,
- Phase 3 (2022-2023): Implementation.

The following outlines the work undertaken, along with the outcome of the review.

### **Phase 1: Research and Legal & Peer Reviews**

To ensure a variety of perspectives and viewpoints were considered, the project to strengthen the intellectual freedom program drew upon internal and external expertise.

In 2018, OPL engaged the law firm Emond Harnden LLP to conduct a legal review of applicable OPL position statements, policies, procedures, and forms related to intellectual freedom. OPL also consulted with the City of Ottawa's Legal Services, and the Ontario Civil Liberties Association. Five peer reviewers were engaged to conduct reviews of the same documents, and two additional peer "final reviewers" were engaged to assist with reviewing the key changes to OPL practices, and the draft revisions to the Statement. Peer reviewers were selected for their expertise in intellectual freedom or freedom of expression issues, and in many cases their ties to the library community. The Committee also supported staff during this phase by serving as advisors, offering strategic guidance regarding the document review.

The legal and peer reviews were conducted independently, and the staff review identified areas of convergence and divergence.

While OPL has a Statement, Content Services Framework, and key policies related to all areas of intellectual freedom, these documents require revision to provide clarity and reduce risks to the organization, particularly in five key areas:

1. OPL's use of Internet content filters in the Library could be construed as a limitation on free expression. If challenged, OPL would need to demonstrate that these limitations are justified based on Charter considerations.
2. Increase transparency in how intellectual freedom is administered. Provide avenues for challenges; currently, decisions are often handled by employees with no central oversight, and there is no ability for a member of the public to appeal decisions.
3. Inadequate training and support for trustees and employees: a short description of intellectual freedom in presentations for new staff and trustees does not provide adequate foundation in this complex issue.
4. Language in the documentation is out of date: for example, documentation refers to some but not all protected grounds under the *Ontario Human Rights Code* and refers to cannabis as illegal under the *Criminal Code*.
5. Increase clarity of documentation to ensure that there are no claims that it is unclear, vague, or incomplete. In some cases, too much specificity in documentation could be seen to place limits on an individual's *Charter* rights, making OPL susceptible to a potential challenge on *Charter* grounds; for example, some types of prohibited content described in the Display Space and Bulletin Board Policy may need to be allowed. In other cases, the vagueness of

some documents leaves them open to broad interpretations which could also be susceptible to challenges; for example, the term “public setting” should be defined in the Public Network Access Policy. Lastly, some documents require more detail: for example, documentation relating to meeting room rentals should ensure the individual or group provides all details about the nature of their use of the room, that the policy includes the rights of staff to access the room at all times to ensure compliance with OPL policies, and that publicity should be provided and approved by staff prior to any group being permitted to advertise publicly.

In terms of divergence, there was no consensus among reviewers whether OPL should remove an item from the collection when it is subject to legal action, or whether to await the outcome of legal proceedings. Some reviewers believed an item should be removed immediately, prior to the outcome of legal proceedings, and some believed doing so would be an example of prior restraint on free speech. In 2020, the Board approved the Content Services Framework, and thus affirmed OPL’s existing practice: that staff obtain legal advice on whether to remove material subject to legal action from the collection. This report does not recommend any changes to this practice.

## **Phase 2: Review of Governance Model**

In addition to reviewing the various OPL documents, the legal and peer reviewers were asked to comment on OPL’s strategic governance model for intellectual freedom. OPL’s current model is identified in Table 1. It indicates decision making authority for various elements of intellectual freedom: with the Board, delegated to the CEO, and sub-delegated to members of the Library Senior Management Team (LSMT).

**Table 1: Intellectual Freedom Key Governance Documents**

Delegated Authority	Intellectual Freedom Document
Board	Intellectual Freedom Position Statement
	Content Services Framework
	Board Policy 010 – CEO Reporting and Board Monitoring
CEO	Public Network Access Policy
	Display Space and Bulletin Board Use Policy
	Meeting Rooms Policy
LSMT	Associated supporting documents and procedures

While two of the peer reviewers suggested that trustees should have oversight of all policies related to intellectual freedom, including those currently delegated to the CEO, the Board’s governance model and existing DOA Policy do not currently require this. As such, staff recommend that no changes be made to the current DOA, or the governance model for intellectual freedom.

Some reviewers also recommended revisions to Board Policy 010 – CEO Reporting and Board Monitoring, which provides direction regarding the frequency and timing of reports the CEO provides to the Board. Specifically, the reviewers recommended staff report annually about intellectual freedom challenges at OPL to raise awareness among Board trustees and the public. In February 2022, staff provided a presentation about 2021 challenges to Library materials. To formalize this annual reporting requirement, staff recommend that Board Policy 010 – CEO Reporting and Board Monitoring be updated accordingly to reflect this reporting timeline.

**Staff consideration and recommendations**

Staff reviewed each key area for improvement and are supportive of the changes suggested, as they align with OPL’s values, strengthen the organization’s commitment to intellectual freedom, and reduce risks related to administering intellectual freedom in various aspects of library services. Based on the information and feedback from Phases 1 and 2, staff are recommending the following to strengthen the intellectual freedom program.

Intellectual Freedom Position Statement - As described earlier, intellectual freedom has been a value at OPL for more than 20 years, and the Board’s commitment to intellectual

freedom has been outlined in a Position Statement since 2011. The current Statement (Document 1) consists of four sentences, followed by relevant industry statements. The reviewers made two specific suggestions for revisions:

1. Provide a broad outline of the appeals process for intellectual freedom challenges relating to collections, meeting rooms, displays, and use of the public network (Internet access); and,
2. Update language to reflect current criminal and human rights legislation, and link to the latest versions of industry statements in Canada (CFLA, OLA).

Providing additional detail, including the five key areas in which intellectual freedom is upheld at OPL (collections, programs, displays, meeting rooms, and Internet access) will ensure clarity and good governance.

Further, given the complexity of embodying intellectual freedom in the current public library environment, staff in consultation with the Committee determined it was important to develop and incorporate guiding principles into the Statement to direct OPL's administration of intellectual freedom. Staff recommend the following three (3) guiding principles be incorporated into the Statement. A description of each is provided here.

**Guiding Principle #1: Ottawa Public Library (OPL) is committed to upholding the core tenet of intellectual freedom.**

OPL affirms that intellectual freedom is foundational to public library services. The concept of intellectual freedom has often been tied to the idea of neutrality, which is generally understood to mean that libraries try to provide a neutral platform for ideas and that the library treats everyone the same.

OPL recognizes that the Library is not neutral. Libraries, like any organization, cannot be truly neutral as every individual brings some personal biases and judgement to the organizations they build and support.

In addition, neutrality ignores the public library's role as curator of information and champion of information literacy. By selecting material for the community according to professional guidelines, by promoting and teaching information literacy, and by equipping citizens with the tools to navigate information, the public library actively works to counter misinformation and support informed citizens.

Rather than relying on the concept of neutrality, OPL relies on its values, and applicable legislation, to guide its commitment to intellectual freedom. For example, the *Charter* defines the rights of Canadians to free speech, including protecting them from hate speech and other harms that can be caused by speech and actions that go beyond the reasonable limits of free expression. In general, courts have ruled that the reasons to restrict free expression must meet a relatively high bar.

OPL recognizes that upholding intellectual freedom may result in some customers being exposed to content that may cause upset, offense, discomfort, or hurt. A commitment to intellectual freedom includes providing access to content that maintains what many would consider an oppressive status quo in society, as well as content that uplifts the voices of historically marginalized groups and pushes for social change. Both types of content are protected under the *Charter* and the *Universal Declaration of Human Rights*. Practical discussions about intellectual freedom are complex; however, the rights of one individual to intellectual freedom do not supersede rights that other individuals may hold in accordance with other applicable legislation.

If an item, program, display, website, or event meets or complies with both the applicable laws and associated OPL policies, it will be permitted within the Library. This does not mean that OPL supports or approves of the content expressed therein; to ensure that customers are made aware of this, this disclaimer will be made publicly available for customers.

Below are the key services in which intellectual freedom is upheld at the Library:

- **Collections:** Materials for OPL's collections are selected according to the Board-approved Content Services Framework. OPL does not knowingly acquire material that contravenes or violates applicable laws. Should material in the collection be found to contravene the law after it has been purchased, OPL will seek a legal opinion regarding removing this material from its collections. Items that do not otherwise meet the Materials Selection Criteria may be removed at any time. Removing items for reasons not outlined in the Content Services Framework may expose OPL to legal risks.
- **Library programs:** Library programs are intentionally designed activities or events that align with OPL's mission, values, and strategic priorities. Programs may be offered by staff, paid performers (bound by a contract), or partners (bound by a Memorandum of Agreement [MOA]).

- **Display space:** Library display spaces, including bulletin boards, are in high-traffic public areas, accessible to customers of all ages, and can sometimes be limited in size. Content for display may be prioritized, based on several factors described in a Library policy.
- **Meeting room rentals:** Making rental space available to the public, for screening films or other private events, is considered a non-library purpose, according to the *PLA*. All meeting room bookings must comply with the Library's policy and supporting documents. Denying a room booking request that complies with the law and applicable Library policies may expose OPL to legal risks.
- **Public network access:** The Library uses filtering software to prevent access, as best possible, to websites that have been determined to contain illegal content (including public incitement of hatred, obscenity, or child pornography). Since 2003, the Library has also filtered access to websites that contain content that is legal, but which may be explicit or offensive (including content related to weapons, nudity, pornography, and gambling). Changes related to filtering are further described in Guiding Principle 2.

#### **Impact on documents associated with Guiding Principle 1:**

- Content Services Framework
  - No changes required; Framework is already in alignment with recommended changes.
- Library Programs
  - Describe approach to OPL programs, including decision-making tools to ensure a variety of perspectives and viewpoints are represented. This will assist in clarifying how OPL makes decisions about programming, including responding to potential future challenges of these decisions.
  - Revise contracts for paid performers and MOAs with partners to ensure OPL's expectations are clear, including OPL's responsibilities under the *Criminal Code* and the *Human Rights Code*.
  - Post signage indicating that "statements made do not necessarily reflect the Library's values."

- Display Space and Bulletin Board administrative policy
  - Revise policy and supporting document: “Distributing Public Information” web page, which discusses OPL’s practices regarding distributing and posting pamphlets, flyers, newspapers, posters, and other free material.
  - Changes required to clarify that OPL reserves the right to refuse to display materials that are not compatible with OPL’s mission, to define what is a permissible posting and what content OPL prioritizes, and to outline the rationale for any prohibited content and how posters and advertisements are handled if there is no space, or the content is deemed prohibited.
- Meeting Room Booking administrative policy
  - Supporting documents: Online Booking Form Process, Small meeting and tutoring rooms guidelines, Taking Photos/Videos Policy.
  - Changes required include obtaining additional information from applicants and clarifying OPL’s expectations (for example, indicate the grounds on which bookings can be refused), outlining the timeline for responses to applications; update the policy wording to align with the *Criminal Code* and the *Human Rights Code*.
  - Post signage indicating that "statements made do not necessarily reflect the Library’s values.”
- Public Network Access administrative policy
  - Supporting documents: Duty to Report Child Pornography Policy, Accessibility Policy, Accessible Formats and Communication Supports Policy.
  - Proposed changes to this policy and related practices are described in detail in Guiding Principle 2;
  - Further changes include providing definitions where necessary to ensure clarity and ensuring wording in the policy aligns with legislation (*Charter, Ontario Human Rights Code*).

**Guiding Principle #2: OPL supports unrestricted access to, and lawful use of, the Internet.**

While unrestricted access to most Library collections is a widely accepted practice in modern public libraries, some libraries differ in how access to the Internet is administered. OPL will provide library customers of all ages with access to the Internet,

filtered solely to remove content reported as illegal, to align with individual's *Charter* rights.

OPL's practice of filtering the Internet for content that may be considered explicit or offensive (including legal content, as mentioned earlier, relating to weapons, nudity, pornography, and gambling) is one of the most restrictive in Canadian public libraries. In many other libraries in the National Capital Region, including OPL's partner in the Ādisōke facility, Library and Archives Canada (LAC), Internet access is not filtered for content.

Filtering the Internet, whether for specific age groups or types of content, is an imperfect process for several reasons:

1. Filters were initially introduced when the Internet was in its early days, and smartphone and tablets did not exist. While filters may block content that meets the criteria on the OPL public network, they do not block content viewed on someone's personal device connected to their own data network.
2. Filters are "retrospective." Filters rely on reports of websites that meet the filtering criteria, and websites with new content are being developed constantly. As a result, filters often present a false sense of security that they are completely effective against all content that meets the desired criteria.
3. Filters block useful content: A study of filtering software found that 20% of websites that did not meet the filter's criteria were in fact excluded, such as the often-cited example of a filter blocking a medical website providing breast cancer information.<sup>4</sup> Similarly, one peer reviewer cited the example of a young person exploring their gender identity who may not be able to access relevant information; the experience of being blocked from content in this case may be particularly damaging to this individual, potentially making them feel embarrassment or shame. In short, when libraries use additional content filters, customers may be unable to find important information that is inadvertently blocked by the filters.
4. Filters slow down network performance, resulting in a negative experience for Library customers.

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<sup>4</sup> Stark, Philip B. "The Effectiveness of Internet Content Filters"  
<https://www.stat.berkeley.edu/~stark/Seminars/luxembourg12.pdf>

The rights of customers of all ages to browse the Internet in a barrier-free way at the Library is a key aspect of upholding intellectual freedom. Additional details regarding the filtering change are provided in the subsequent discussion of Key Changes to Library Services (Change #1).

### **Impact on documents associated with Guiding Principle 2:**

- Content Services Framework
  - No changes required, as customers of all ages may already borrow items in any collection.
- Library programs
  - No changes required.
- Display Space and Bulletin Board administrative policy
  - No changes required.
- Meeting Room administrative policy
  - No changes required.
- Public Network Access administrative policy
  - Changes required include removing the filtering of legal content. All customers will have access to the Internet filtered solely for content reported as illegal.

### **Guiding Principle #3: OPL welcomes open discussions about intellectual freedom, including challenges to the Library's decisions.**

Upholding intellectual freedom requires OPL to present a variety of viewpoints and perspectives. Recognizing that libraries have a role to play in encouraging open dialogue and discussion, OPL welcomes the opportunity to engage in dialogue regarding intellectual freedom as a key tenet and the application of intellectual freedom in Library decisions. In keeping with OPL's value of integrity, customers may request that OPL reconsider a decision related to intellectual freedom. A customer may also appeal OPL's decision in these matters.

A free and open exchange of ideas may mean that customers are exposed to opinions via the Library that may be upsetting, offensive, uncomfortable, or hurtful, or that may make them feel unsafe. This can lead to damage to OPL's reputation, and to

relationships with community groups. Library staff work collaboratively with individuals and groups to address concerns about the Library's content. Staff will strive to do this in a manner consistent with OPL's vision, mission, and values while recognizing that the Library may not prohibit content.

Staff also recognize that implicit in conversations about intellectual freedom are complex realities about power within society, including considering whose voices are most at risk of being silenced, and which groups have traditionally been permitted free speech. These considerations are important for staff, and link to the OPL value of inclusion. OPL views upholding intellectual freedom as fundamental to ensuring that those who may be excluded or marginalized are able to express their ideas and opinions.

To ensure transparency, staff will report to the Board on all intellectual freedom challenges annually, normally in February, in recognition of Freedom to Read Week.

### **Impact on documents associated with Guiding Principle 3:**

- Content Services Framework:
  - No changes to the Framework itself, but to the supporting document, a "Request to Reconsider Library Materials Form." This form will be expanded to include challenges related to Library programs, display spaces, Internet use, and meeting room bookings, as well as a process for an appeal of OPL's decision regarding a challenge.
- Library programs
  - As above.
- Display Space and Bulletin Board administrative policy
  - As above.
- Meeting Room administrative policy
  - As above.
- Public Network Access administrative policy
  - As above.

### Key Changes to Library Services

Staff will implement the following key changes to operations in order to align with the revised Intellectual Freedom Position Statement, including the new guiding principles if approved:

Change #1: Remove remaining restrictions to intellectual freedom, particularly in filtering the Internet in the Library for content that is legal. As such, all filtering for legal content relating to weapons, nudity, pornography, and gambling will be removed.

An OPL policy around Internet access was first introduced more than 20 years ago, when the Board approved the Public Internet Use Policy in 2003. In 2013, this policy was revised to add filtering for illegal content, and in 2015 the policy was moved from the Board's authority to the CEO's delegated authority (see Document 3: Key Revisions to Intellectual Freedom Documents for more information about these revisions). Under this policy, currently called the Public Network Access Policy, access to the Internet at the Library is provided in three ways, as described in Table 2:

**Table 2: Internet filtering at OPL**

<b>Type A: Illegal content only (child pornography and malware)</b>	<b>Type B: Illegal and legal content (Type A content + weapons, nudity, pornography, and gambling)</b>	<b>Type C: No filtering</b>
Workstations at OPL branches (facility channel) designated for use by adults (can only be logged into with an adult card)	Workstations at OPL branches (facility channel) designated for use by children (can only be logged into with a children's Library card) <sup>5</sup>	OPL Wi-Fi hotspots, including those used by customers using their own devices at mobile channels (Bookmobile stops)
OPL-borrowed Chromebook being used by	OPL-borrowed Chromebook being used by a Children's	

<sup>5</sup> These workstations represent approximately 9% of total workstations available at OPL

an Adult library card	library card	
Personal device being used by an Adult library card and connected to OPL Wi-Fi	Personal device being used by a Children's library card and connected to OPL Wi-Fi	
	Some workstations in high-visibility adult areas, used by children or adults	

If this report is approved, Internet access at OPL will only be filtered for content reported as illegal (Type A), with the exception of Internet access at mobile channels (Bookmobile stops), which will remain unfiltered (Type C) until it is possible to align them with Type A. Moving to Type A filtering will respect the section 2b *Charter* rights of all customers and remove prior restraint on freedom of expression that is otherwise legal. This change will also ensure better alignment with access to other OPL services, such as collections.

Recognizing that the change in Internet access may be worrying for some customers, it is worth highlighting several current policies and practices already in place that may mitigate against concerns:

- All customers must abide by the Library's Code of Conduct, which indicates that it is not acceptable to interfere with others' use of Library spaces, or engage in harassing behaviour, and that customers must follow Library staff direction and all Library policies and statements when using OPL. The Code of Conduct further asks customers to "take responsibility for those in their care" (including children) when using OPL, including when browsing the collection, accessing the Internet, or using Library spaces in other ways.<sup>6</sup>
- All Library computer workstations are equipped with privacy screens. A privacy screen is a thin polarized plastic sheet placed on a computer monitor to restrict visibility unless the screen is viewed from someone sitting directly in front of it.

<sup>6</sup> "Library Code of Conduct." Report OPLB-2022-0502  
<https://app05.ottawa.ca/sirepub/mtgviewer.aspx?meetid=8555&doctype=AGENDA>

Most privacy screens limit visibility to approximately 30 degrees on either side of the screen;

- The location and arrangement of computer workstations in OPL branches follow Crime Prevention Through Environmental Design (CPTED) principles to maximize safety and oversight;
- Only those with a children's Library card (under the age of 17) can log into computers in the children's area of the Library;
- Parents or legal guardians may request a Library card for their child (under the age of 17) that does not allow Internet access; and,
- Protections on individual's own devices will remain in place: for instance, a child whose parents have set up parental controls on a phone, tablet, or laptop will still only be able to view content that is not restricted by those parental controls when using OPL Wi-Fi on that device.

Change #2: Improve transparency in administering intellectual freedom, including centralizing the procedures for handling challenges, providing a process for appeals of OPL's decisions regarding challenges, and reporting out on challenges annually; Staff will revise the "Request to Reconsider Library Materials Form" to include the ability to challenge and appeal OPL decisions in other areas of service. In addition, staff will centrally administer reporting requirements regarding intellectual freedom issues, as well as handling appeals to decisions regarding intellectual freedom, through the Office of the CEO to ensure oversight and consistency. Lastly, staff will clearly articulate specific roles and responsibilities related to administering intellectual freedom issues at various levels within the organization.

Change #3: Develop new robust training about intellectual freedom, and an ongoing plan to support intellectual freedom, for both trustees and employees.

Change #4: Update all documentation with current legal terminology and/or refer to current versions of legislation as applicable.

Change #5: Complete thorough revisions to each administrative document to provide clarity or additional detail as required.

### **Phase 3: Implementation (2022-2023)**

As discussed, OPL has undertaken an extensive review of its practices related to intellectual freedom, given the importance of this key aspect of public library services.

This review has been informed by robust consultation with both legal and peer experts in the field, as well as applicable legislation. OPL has a responsibility to adhere to these laws and align with the *PLA* when upholding intellectual freedom.

Upon approval of this report, and the recommendations herein, the revised Intellectual Freedom Position Statement (as a guiding document) will take effect immediately, and staff will undertake a phased approach to the implementation of administrative changes, in three parts as described further below. This plan will ensure OPL is able to administer effective and legally sound policies and practices, properly educate and support employees and trustees, and champion intellectual freedom on an ongoing basis.

### **Part 1: Administrative Document Revisions**

As previously identified, there are three main existing policy areas impacted by this report: Public Network Access, Meeting Rooms, and Display Spaces. A total of 12 administrative documents within these three policy areas require revisions, including two related to display spaces, four related to meeting room rentals, and six related to network access. To ensure that the administrative documents reflect the most current state of the law, staff will seek updated advice, as required.

Similarly, staff expect that individuals and groups may have feedback regarding the implications of the revised Statement on Library operations. This feedback is welcome and will be considered as staff draft revisions to administrative documents. While OPL's commitment to intellectual freedom as a value remains firm, staff look forward to hearing from community members who have ideas about day-to-day practices that may inform revisions to administrative documents.

The first policy that staff will revise is the Public Network Access Policy, in order to align this Policy with Guiding Principle #2. It is expected that the revised version of this policy and any subsequent operational changes will be completed effective Monday, August 15, 2022.

The next policy that staff will revise is the Meeting Rooms Booking Policy. Staff expect that revisions to this policy will take several months to complete, due to the complexity of the policies and procedures, as well as the need to discuss the implications of changes to this policy with LAC, OPL's partner in *Ādisōke*. It is anticipated that these changes can be completed before the end of 2022.

Revisions to the Display Space and Bulletin Board Policy will also be undertaken before the end of 2022 and are anticipated to be simpler, compared to the two previous policy areas. Revisions will focus on clearly defining permissible and prohibited postings, and what content OPL prioritizes. These revisions will also be reviewed with LAC, considering the future implications on Ādisōke. It is anticipated that these changes can be completed in early 2023.

Lastly, in order to align with Guiding Principle #3, staff will also revise the “Request to Reconsider Library Materials Form,” to expand it to include challenges related to Library programs, display spaces, Internet use, and meeting room bookings, as well as a process for an appeal of OPL’s decision regarding a challenge.

## **Part 2: Employee and Trustee Training**

One of the most important aspects of this implementation plan is ensuring that employees and trustees receive adequate training regarding both the concept of intellectual freedom as well as the practical application of the revised documents. In order to accomplish this, staff must develop a multi-level training program, such that employees in every position in the organization receive training that is tailored to their specific role. For instance, while every employee and trustee will need to receive high-level training about the general concept and application of intellectual freedom at OPL, employees with specific administrative roles and responsibilities will need to receive additional instruction to apply specific policies, procedures, and practices.

The development of this robust training will take several months, due to the fact the training will have to be developed from the ground up, using in-house resources with support from an external consultant. The reason for this approach is that staff have confirmed that there is no comprehensive intellectual freedom training program that meets our specific needs available in Canada. While training programs are available from American institutions, they are not reflective of the differences in legislation and cannot be easily adapted into a Canadian context. In addition, because some components of the training will need to be tailored to align with OPL’s policies, practices, and specific employee roles, an “out-of-the-box” training product would not be suitable. Staff anticipate that the development of this training will take six months and will be complete and ready to deliver starting in January 2023. Recognizing that OPL will have a new Board of trustees in 2023, and that there are more than 600 employees

in the organization, staff expect three additional months will be required after training is developed, in order to deliver training.

### **Part 3: Supporting conversations about intellectual freedom**

One peer reviewer noted that conversations about intellectual freedom in the library often occur only when a library is facing a specific challenge (a reactive approach to upholding intellectual freedom). They underlined the importance of keeping our commitment to intellectual freedom alive by engaging in open conversations on an ongoing basis about the importance of this key tenet (a more proactive approach to upholding intellectual freedom). Staff agreed that this is a worthwhile shift in OPL's approach to intellectual freedom and will help foster understanding and engagement with intellectual freedom as an idea and help integrate intellectual freedom conversations into OPL services. This also aligns with Guiding Principle #3.

As such, staff will begin applying an intellectual freedom lens to workplan items, new projects, and operational plans, starting in Q4 2022. As an initial idea, programs around intellectual freedom may be developed annually for Media Literacy Week (in October) and Freedom to Read Week (in February). Applying this lens to operations may also include additional programming, displays, events, presentations, reports, and / or stakeholder discussions. Stakeholders may include community groups, City of Ottawa partners, LAC, and other public libraries in Ontario and across Canada. These ongoing conversations will help support OPL's commitment to intellectual freedom and strengthen key relationships.

Given the details and timelines indicated above, staff anticipate that the implementation phase of this work will be completed no later than April 1, 2023. By that time, all administrative policies will have been revised to align with the Statement, employees and trustees will have completed a robust training program and supporting intellectual freedom will be integrated into operational service delivery plans.

In the interim, the revised Statement, if approved, will be posted to the OPL website with a note explaining the implementation period, and all current versions of related administrative policies and procedures will continue to apply.

Upon approval of this report, staff will begin the above implementation plan, reporting back to the Board on progress. While the policy revisions are administrative in nature, and, as discussed, these policies are delegated to the CEO, staff will provide status

updates regarding implementation regularly, and provide a close-out report regarding the implementation process no later than Q3 2023. Finally, and as described earlier in the report, staff will present proposed revisions to Board Policy 010 – CEO Reporting and Board Monitoring to reflect an annual reporting requirement related to intellectual freedom.

## **CONSULTATION**

Staff engaged in the following consultations to develop this report and associated documents, including:

- OPLB Intellectual Freedom Ad hoc Committee (Chair Luloff, Trustee Begg, and Trustee Kitts, with thanks also to former Trustees Sweet and Meehan)
- Library Senior Management Team
- Emond Harnden LLP
- Ontario Civil Liberties Association
- City of Ottawa Legal Services, City Solicitor, Ottawa Police Services (Hate Crimes Investigations), and the City of Ottawa Anti-Racism Secretariat
- James Turk, Director, Centre for Free Expression, Ryerson University
- Vickery Bowles, City Librarian, Toronto Public Library
- Alvin M. Schrader, Member of the Working Group on Intellectual Freedom at the Centre for Free Expression at Ryerson, and Professor Emeritus in the School of Library and Information Studies, University of Alberta
- Dr. Sabrina Saunders, CEO, Blue Mountains Public Library
- Hannah McGeachie and Alicia Samuel, formerly with Ten Oaks Project
- Dr. Mary Cavanagh, Director, School of Information Studies, University of Ottawa
- Sam Popowich, PhD candidate (focus on intellectual freedom), University of Alberta

## **ACCESSIBILITY IMPACTS**

OPL is committed to a barrier-free environment that meets or exceeds AODA legislation where applicable. Questions and concerns may be directed to the OPL Accessibility Office.

As part of the review process, an accessibility lens was applied to all documents reviewed. Feedback was incorporated into the revised Statement.

Accessibility considerations will also be incorporated in the revisions to policies and other supporting documents, ensuring the rights of those with an accessibility need are respected.

## **BOARD PRIORITIES**

The recommendations in the report align with OPL's values, including intellectual freedom and inclusion. The report also fulfills one of the priorities under the strategic direction to promote the value of OPL, specifically the direction to strengthen the intellectual freedom program.

## **BUSINESS ANALYSIS IMPLICATIONS**

There are no immediate business analysis considerations in approving this report. Ensuring appropriate oversight of intellectual freedom challenges may include future data requirements, to be determined when administrative policies and supporting documents are revised. Staff will report back to the Board regarding this matter.

## **FINANCIAL IMPLICATIONS**

If this report is approved, staff will develop robust training regarding intellectual freedom for employees and trustees. Preliminary costs for developing this training will be covered under the existing training budgets. There are no further immediate financial considerations in approving this report.

## **LEGAL IMPLICATIONS**

The report and the associated documents are in alignment with applicable legislation, including the *Universal Declaration of Human Rights*, the *Canadian Charter of Rights and Freedoms*, the *Criminal Code*, the *Ontario Human Rights Code*, the *Accessibility for Ontarians with Disabilities Act*, and the *Ontario Public Libraries Act, RSO 1990, c. P.44*.

An external legal review was obtained from Emond Harnden, as well as an ethical legal review from the City of Ottawa's Legal Services and City Solicitor.

A robust intellectual freedom program will help OPL reduce the risk of legal challenges.

## **INDIGENOUS AND GENDER EQUITY IMPLICATIONS**

The responsibility to uphold intellectual freedom comes with a complementary responsibility to ensure perspectives that have been traditionally marginalized or excluded are equitably presented in the library. Three reviewers identify as members of groups at risk of exclusion as identified in the City's Equity and Inclusion Lens. While bound by applicable legislation related to intellectual freedom, OPL will continue to work with individuals and groups who have been traditionally excluded, including Indigenous groups and women's groups, to ensure their perspectives are represented in the Library.

## **RISK MANAGEMENT IMPLICATIONS**

A robust and legally sound Statement, clearly communicated and shared with the public, will help reduce the risk of legal challenges by clarifying the values and legal obligations of the Library.

Revising the policies and associated administrative documents will ensure that internal stakeholders (employees and trustees) are adequately educated and supported in upholding intellectual freedom when faced with challenges.

Administrative policies and associated documents will be non-compliant until the implementation date. This is intentional, as the Statement must be approved prior to beginning revising administrative documents. Several interim edits have been made to lower the risk to OPL at this time.

## **TECHNOLOGY IMPLICATIONS**

There are no immediate technology implications associated with this report.

The filtering system on public computers and the network will require reconfiguration as of the implementation date.

## **SUPPORTING DOCUMENTATION**

- Document 1 BRD-002 POS Intellectual Freedom Position Statement (original)
- Document 2 BRD-002 POS Intellectual Freedom Position Statement (revised)
- Document 3 Key Revisions to Intellectual Freedom Documents

## DISPOSITION

Upon approval of this report:

1. Staff will make amendments to the Intellectual Freedom Position Statement, including adding the guiding principles, post the Statement on the Library's website, and ensure that copies are provided to trustees and staff;
2. Staff will begin the implementation plan to align operations with the Statement no later than April 1, 2023, including:
  - a. Filtering both wired and wireless networks for illegal content;
  - b. Revising administrative documents;
  - c. Developing robust training for trustees and employees; and,
  - d. Developing a plan to continue to foster discussions about the importance of intellectual freedom in the community; and,
  - e. Updating Board Policy 010 – CEO Reporting and Board Monitoring to reflect the suggestion to report annually regarding challenges.
3. Staff will provide the Board with:
  - a. Status updates on implementation of this project, along with a close-out report no later than Q3 2023; and,
  - b. Annual reporting on challenges to all aspects of intellectual freedom;
  - c. Future opportunities for further engagement with intellectual freedom matters via the Ad hoc Committee on Intellectual Freedom.
4. Staff will work with the Board to review the Intellectual Freedom Position Statement in the second year of each term of a new Board, unless otherwise required due to legislative requirements or alignment with other statements as applicable.