



A campus of The California State University

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Office of the Academic Senate • One Washington Square • San Jose, California 95192-0024 • 408-924-2440 Fax: 408-924-2451

### **SS-F07-5**

At its meeting of November 19, 2007, the Academic Senate passed the following Sense of the Senate Resolution presented by Senator Kenneth Peter for the University Library Board.

### **Sense of the Senate Resolution**

#### **“Affirming San José State University’s Commitment To Complete Academic Freedom in the use of Library Resources”**

- Resolved: We call upon the City of San José to honor the commitment it made when it joined the University in undertaking to create our unique and valuable joint library, promising to “honor the current policy of both the University and the City to provide for unrestricted access to all Library Material within the Library Collections and services within the Joint Library for all Members of the General Public and the University Users,”<sup>1</sup> be it further
- Resolved: The Academic Senate of San José State University affirms our continual support for existing policy, which states that “Recognizing the need for complete freedom of information in an academic environment, there shall be no censorship of any library resources within the San José State University Library.”<sup>2</sup> Internet use is one such resource and is subject to our no-censorship policy; be it further
- Resolved: We endorse the “Intellectual Freedom Principles for Academic Libraries” of the American Library Association, which states that “Open and unfiltered access to the Internet should be conveniently available to the academic community in a college or university library. Content filtering devices and content-based restrictions are a contradiction of the academic library mission to further research and learning through exposure to the broadest possible range of ideas and information. Such restrictions are a fundamental violation of intellectual freedom in academic libraries;”<sup>3</sup> Be it further

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<sup>1</sup>Agreement for Ownership and Operation of Joint Library Building and Grant of Easement: By and Between City of San José and The Trustees of the California State University On Behalf of San José State University, December 17, 1998, 5.4.1.

<sup>2</sup>University Policy S-03-5, (3.4). Revised policy approved by President Robert Caret, April 4, 2003.

<sup>3</sup>American Library Association, *Intellectual Freedom Principles for Academic Libraries*:

*An Interpretation of the Library Bill of Rights*, item 6, Approved by ACRL Board of Directors: June 29, 1999. Adopted July 12, 2000, by the ALA Council.

Resolved: San José State University shall continue its long standing practice of making uncensored access to its materials available to faculty, staff, students, and all citizens of the State of California. This practice is protected by the joint operating agreement with the City, which states “the City hereby agrees that it shall not restrict access to any Library Material within the University Library Collection or restrict use of any University services or programs,”<sup>4</sup> be it further

Resolved: Copies of this resolution shall be distributed to members of the San José City Council, the Mayor of San José, the City Librarian, the President and Provost of San José State University, the Dean of the University Library, and interested members of the press.

Rationale:

On October 24, 2007, San José City Councilmember Pete Constant recommended that the San José City Council adopt an ordinance mandating that the San José Public Library use “filtering technology on all computers with Internet access.” The purpose of the ordinance, as explained in Councilmember Constant’s memo, is to “to protect children from the dangers of ‘*second-hand porn*’ and, in some cases, the lewd acts performed by individuals viewing obscene material in public.”

We agree with the American Library Association that any form of censorship is incompatible with the mission of an Academic Library. The core Academic mission of the SJSU Library within the context of the joint library agreement cannot be compromised, and the City was made fully aware of the University’s clear position on this matter prior to signing the joint operating agreement. In fact, the decision by the City and the University to refrain from censoring jointly provided materials was an essential precondition for approval of the joint library.

We have discussed at great length the nature of various censorship options and their many technical pitfalls. Councilmember Constant’s proposal would impose censorship controls on all terminals, with the option for an adult to make a “temporary unblock” request. “For a temporary unblock request, the patron should make the request to a library employee, who will refer it to the IT specialist on duty. If the IT specialist determines that the site is appropriate for viewing (i.e. falls outside the appropriate filtering categories) the site will be unblocked for 24 hours.” (Proposed City Internet Access Policy, Attachment G in Memo, From Constant to Rules Committee, October 18, 2007.)

To anyone with an interest in understanding the many practical problems with censorship, we recommend viewing the article “Why filters won’t protect children or adults” by Nancy Kranich, originally published in *Library Administration and Management* (vol. 18, number 1, Winter 2004, pp. 14-18) and reproduced on the ALA website<sup>5</sup>:

<http://www.ala.org/ala/oif/ifissues/issuesrelatedlinks/whyfilterswontprotect.htm>

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<sup>4</sup>Agreement, 5.4.2.

<sup>5</sup>Data cited in the article include: Only approximately 1.5% of sites are considered pornography. The best filters block 75% of the pornography sites when set at the highest level, and at the highest level block 20% of total sites, the estimate being 3 billion benign sites, meaning approximately 600 million benign sites blocked.

There are serious problems with overblocking, with underblocking, with site identification, overrides, installation and with maintenance costs. Particularly problematic for scholars is that the censorship companies closely guard their techniques as proprietary secrets, and thus make decisions about censorship that are non-transparent, unaccountable, and possibly driven by partisan political or religious biases. More recent studies confirm that the problems with internet censorship continue, or even multiply.<sup>6</sup>

The more one delves into the “practical problems” with censorship, the more one understands that they are merely instances of deeper and more insoluble problems related to subjective judgements about information control. The notion that filters have “improved” over the years, or ever could improve, is simply false. Censorship always uses human judgment about what information should or should not be available to someone else. This is true whether the censors are programmers who hide behind the veil of “proprietary information,” or whether they are the “IT specialists” called for by the Constant proposal.

Advocates of censorship frequently cite a 2003 Supreme Court ruling that upheld a 2000 Federal Law: the “Children’s Internet Protection Act.” This act mandated that schools and public libraries must implement internet filtering to be eligible for certain federal grants. But some 50-60% of American libraries have chosen NOT to implement CIPA, and CIPA does not apply to Academic Libraries in any case. Thus, for our purposes, CIPA is not germane.

The University Library Board and the Academic Senate of San José State University believe that the King Library is a treasured civic space. This space provides the opportunity for positive interactions between the SJSU academic community and the public library community. The library’s success is demonstrated, in part, by 2.5 million patron visits and 700,000 internet sessions a year. The great success of the joint library is predicated upon a robust level of cooperation between the City and the University. We invite the City to join us in renewing our commitment to the shared understandings that make the joint library possible.

Approved: November 8, 2007  
Present: Peter, Moon, Chung, Chang, Smith, Bakke, Bernier, Von Til, Fleming, Peterson, Cox  
Absent: Walton, Kifer, Desalvo  
Vote: 11-0-0, discussed in committee on November 5, email vote completed November 8.

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<sup>6</sup>For example, see Ashutosh Deshmukh and Balaji Rajagopalan, “Performance Analysis of Filtering Software Using Signal Detection Theory,” *Decision Support Systems* 42 (2006) 1015-1028.

“The primary conclusion, when a simple software filter is used, is that even if the software filter has a 100% hit rate, it needs extremely low level of false alarm rates; levels, arguably, practically unachievable in many cases. As the costs associated with miss rates escalate the required level of false alarm rates becomes even lower. Additionally, as the hit rates decline the required level of false alarm rates also declines. The maximum permissible false alarm rate for correct decision making under the most liberal conditions is 1.1%. In the real-world, the hit rates of software filters are measured up to 90% (but can be as low as 50%) and the false alarm rates can be 25% or more.” (p. 1026.)

Ashutosh Deshmukh is a Professor of Accounting and Information Systems at the Sam and Irene Black School of Business, Pennsylvania State University-Erie. Balaji Rajagopalan is Associate Professor of Management Information Systems at Oakland University School of Business in Rochester, MI.

Financial impact: S.O.S. resolutions have no financial impact. If the sentiments of this resolution were followed, King Library might be spared the expense of implementing the software and technical support associated with censorship.

Workload impact: S.O.S. resolutions have no direct workload impact. If the sentiments of this resolution were followed, staff would be spared the workload associated with implementing a system of censorship.