

RESOLUTION ON LIBRARY FEE WAIVERS
UNDER THE FREEDOM OF INFORMATION ACT

- WHEREAS, The American Library Association has vigorously supported the Freedom of Information Act (FOIA) as a guarantor of principles fundamental to a democratic society: "the people's right to know," the free flow of ideas, and public access to government information; and
- WHEREAS, The charging of fees under the FOIA represents such a substantial barrier to requesters that Congress amended the FOIA in 1986 to limit fees to only those requesters who sought information for private commercial uses, such as bidding on contracts or researching competitors; and
- WHEREAS, Congress intended to provide favorable treatment to any disseminators of information, clearly defined the dissemination of information to the public as a protected use of the FOIA, not a commercial use, and clearly recognized libraries and depositories of public records as active disseminators of information: "[T]hat of course is the primary function of libraries and repositories of public documents," stated the chief Senate sponsor of the 1986 amendments; and
- WHEREAS, In the modern information age, libraries serve the public by actively acquiring and disseminating information, linking the public to electronic databases, and creating public access to otherwise unavailable sources of information; and
- WHEREAS, The Department of State, in particular, and other Executive Branch agencies such as the Office of Management and Budget and the Department of Justice, have interpreted the 1986 FOIA amendments exclude libraries from waivers of fees, by using excessively narrow definitions of "information dissemination" and of "educational institutions" that would allow preschools to qualify, but not major public research libraries; and
- WHEREAS, Executive agencies' denial of fee waivers to libraries has a chilling effect on the likelihood of libraries using the FOIA for the benefit of the public; and
- WHEREAS, Executive agencies have denigrated the very function of libraries in our democratic society by describing the role of libraries as "passive dissemination," and have further declared, in a letter from the State Department to an ALA member library, the National Security Archive: "Merely making records available to those who may request them (much the same type of dissemination that government agencies provide through the FOIA) will not itself contribute significantly to the public's understanding of the operations of government;" now, therefore, be it

RESOLVED, That the American Library Association urge federal executive agencies to follow the clear intent of Congress, to recognize libraries as educational institutions and information disseminators under the Freedom of Information Act, and to waive FOIA fees to libraries open to the public; and, be it further

RESOLVED, That the American Library Association recommend congressional action to correct this egregious misinterpretation of congressional intent, if the agencies involved do not make the necessary changes in their fee waiver practices; and communicate these concerns over the status of libraries under the FOIA to all appropriate federal agencies and congressional committees.

Adopted by the Council of the
American Library Association
Washington, D. C.
January 11, 1989
(Council Document #38)