

WELCOME!

Working With Library Boards Part 1: A Legal Guide

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Session Objective

At the end of this session you will:

- have a better understanding of the legal requirements of Wisconsin public library boards
- be aware of resources available to help educate library boards about their legal responsibilities



The More They Know!

The best education tool the library board has at its access is YOU.

Breakdown of Chapter 43

43.00 – 07 Duties of the state entities (State Superintendent, COLAND, DPI/DLT, RLLL)

43.09 Certificates and standards

43.11 – 12 County planning and payments

43.13 – 27 Public library systems

43.30 – 72 Local issues

43.52 – 58 Our focus today:

- ❖ Establishment of public libraries
- ❖ Board Composition
- ❖ Powers & Duties of the Board

43.52-57 Establishment of Public Libraries

- Any municipality may establish, equip, and maintain a public library
- A joint library may be created by any 2 or more municipalities or by a county and one or more municipalities located in whole or part in the county
- Tribal associations or governments may also establish a public library
- Counties may establish a county library, county library service, or joint library

43.52-57 Establishment of Public Libraries

- Every public library shall be free for the use of the inhabitants of the municipality by which it is established and maintained,
 - System membership requires “same services” to all residents of the system area
- ... and subject to such reasonable regulations as the library board prescribes in order to render its use beneficial to the greatest number
 - **Policies** are set by the library board and reviewed regularly (43.52(2))
 - “Reasonable” implies they must be uniformly and consistently enforced
- The library board may exclude those who willfully violate such regulations
- Library can charge user fees for services outside of “core library services”

Question

Wisconsin prescribes citizen control of public libraries (in the form of a library board). Why?

- Citizen control isolates library operations from political pressure.
- Citizen control ensures that the library collection is developed independently of any particular political [or other biased] viewpoint.
- Citizen control means the library is governed by the same people the library serves– the public.

43.54 Library Board Composition

- Board composition is based on municipality size and type
 - 2nd, 3rd, and 4th class cities have either 7 or 9 board members (Milwaukee is the only 1st class city in the state and different rules apply)
 - Villages, towns, and tribal associations have 5 members (although 2 additional members may be added to total 7)
 - Joint library boards have 7 to 11 members, and are representative of the populations of participating municipalities
 - Consolidated county library boards have either 7 or 9 members
 - County library service boards have 7 members

43.54 Library Board Composition

- Members are appointed by the mayor, village president, town chairperson, or tribal chairperson
- Terms are for 3 years, and expirations are staggered so that the vacancies do not occur at the same time, commencing on May 1
- The appointing authority shall appoint a school district administrator or the administrator's representative
- Not more than one member of the municipal governing body shall at any one time be a member of the library board
- Members shall be residents of the municipality; not more than 2 can live outside the municipality

43.60 County Appointments to Local Boards

Wisconsin State Statutes 43.60(3)(a): A county chairperson, with the approval of the county board, may appoint from among the residents of the county additional members to the library board of a public library of a municipality located in whole or in part in the county, for a term of 3 years from the May 1 following the appointment, and thereafter, for a term of 3 years, as follows:

- **(3)(a)1.** If the annual sum appropriated by the county is equal to at least $1/6$ or less than $1/3$. . . one additional member
- **(3)(a)2.** If the annual sum appropriated by the county is equal to at least $1/3$, but less than $1/2$. . . two additional members
- **(3)(a)3.** If the annual sum appropriated by the county is equal to at least $1/2$, but less than $2/3$. . . three additional members
- **(3)(a)4.** If the annual sum appropriated by the county is equal to at least $2/3$, but less than the annual sum appropriated by the municipality, four additional members
- **(3)(a)5.** If the annual sum appropriated by the county is equal to at least the annual sum appropriated by the municipality, five additional members
- **(3)(c).** A county chairperson may appoint a county supervisor to serve as a member of a library board of a public library of a municipality under par. (a), but no more than one county supervisor so appointed may serve on the library board at the same time

Story Problem!

Your municipality appropriates \$300,000 to your library and your county appropriates \$120,000. How many board members can your county appropriate to your local library board?

- $120,000 / 300,000 = 0.40$
 - This is greater than $1/3$, but less than $1/2$
- Your county may appoint 2 additional members to the local library board

Any Questions So Far?

Next Up: Duties & Responsibilities of the
Library Board

43.58(1): Exclusive Control

- The library board shall have **exclusive control** of expenditure of all monies collected, donated or appropriated for the library fund, and of the purchase of a site and the erection of the library building whenever authorized
- The library board shall also have **exclusive charge, control and custody** of all lands, buildings, money or other property devised, bequeathed, given or granted to, or otherwise acquired or leased by, the municipality **for library purposes**

43.58(2): Library Finances

- The library board must approve all expenditures of library funds; however,
- Library funds must be held and disbursed by the municipality (or fiscal agent municipality if a joint library)
- That includes all library revenues, such as fines, fees, sales, and county funds; however,
- Donations and bequests may be deposited or transferred as specifically allowed

43.58(3) Liability

“Any person having a claim or demand against the municipality or county growing out of any act or omission of the library board shall file with the library board a written statement thereof. If the claim or demand or any part thereof is disallowed, the claimant may bring an action against the municipality or county.”

So can trustees be held personally liable?

- Generally, no, if they follow the law
- Exceptions are careless injuries or damages, illegal use of funds, conflict-of-interest violations, and open meeting violations
- Individual trustees must act and speak for the library only when authorized to do so by the full board

43.58(4): Hiring the Director

- The library board has the statutory authority to hire, supervise, and, if necessary, fire the library director.
- The director is under the direct supervision of the library board. (The director hires and supervises all staff and volunteers who work in the library.)
- The library board is also responsible for determining the *general duties* and *compensation* of all library staff, including the director.

43.58(6): Annual Report

- The library board must submit a report (aka, the annual report) to the DLT and its governing body within 60 days of the conclusion of the fiscal year (this means **by** March 1).
 - States the condition of funds held in trust by the library board
 - Reflects all funds in the library board's control, including detail of all expenditures paid by the library
 - Includes data concerning materials, facilities, personnel, operations, programming, etc.
 - Contains a statement by the library board indicating whether the public library system in which the library participated that year **did** or **did not** provide effective leadership

43.58(7): Donations, Bequests, and Trusts

- The library board *may* receive, manage and dispose of gifts and donations (only) by:
 - Transferring the funds to the treasurer of the municipality or county that established the library
 - Resolve to deposit the funds with a public depository (a bank, credit union, or savings and loan in WI, or the local government investment pool)
 - Entrust the funds to a financial secretary, who may invest the funds as permitted
 - Pay or transfer funds to a charitable organization whose purpose is to provide financial or material support to the public library, or a community foundation (NOTE: if transferred to a library or community foundation, the board maintains control over the disbursements of the proceeds and principle)

In Addition, Library Boards:

- Must be sure the library director qualifies for and maintains the appropriate certification from the DPI/DLT, per 43.15(4)(c)(6) and Admin. Code PI 6.03.
- Must annually elect a board president and any other officers designated by the trustee bylaws, per 43.54(2) and 43.57(5)(d).
- Must approve and submit the annual report to the DLT *and the municipality*, per 43.58(6).
- Must be familiar with other laws, such as open meetings, public records, compatibility of office, and federal and state employment laws such as FLSA, ADA, FMLA.

A Word on Municipal Support

- Municipal support is an essential component in the success of a public library
- Good relationships with the municipality will make the director's professional life much easier
 - Do not wait until the library needs something to communicate with them!
- Favorable relationships with the municipality can be nurtured through:
 - Consulting with municipal officials on major issues facing the library
 - Communicating the rationale for library board decisions
 - Providing convincing testimony for the needs of the library
 - Understanding the division of duties...

Division of Duties Matrix

Municipality	Library Board	Library Director
Set annual library appropriation	Determine detailed library budget	Keep board informed
Maintain custody of most library funds	Audit and approve all library expenditures	Advise board
Disburse library expenditures	Hire and supervise library director	Hire and supervise other library staff
	Determine library policies	Administer day-to-day library operations

So, What If...

- ...our library does not follow Chapter 43 requirements?
 - Chapter 43 is required by the state for system membership
 - If a library does not comply with Chapter 43, a portion of the state aid provided to the library system may be withheld
 - The system will be forced to develop a plan to get the library into compliance
 - If the library remains noncompliant, the system will withhold services and eventually expel the library from the system
 - There is no “direct aid” that goes directly to libraries; all state aid funnels through library systems
 - system membership is not required, but it is the only way to get state funding and system services

Tools at Your Access

- Your system staff
- Your municipal attorney or county corporate counsel
- Shannon Schultz, Public Library Administration Consultant
Shannon.Schultz@dpi.wi.gov, (608) 266-7270
- The PLD website at <https://dpi.wi.gov/pld/boards-directors> (please note: our website is under renovation)
 - Trustee Essentials, Administrative Essentials
 - Policy information
 - Various documents on legal issues
- A great cheat: <http://winnefox.org/bootcamp/administration.html>

Any Questions?