Library Law: Or, Is All This Legal?

You don't have to be an attorney in order to be a library director, but you do need to understand the basics of many state and federal laws that affect your library. You should also know about any local ordinances that might pertain to your library.

Legal requirements that may most seriously affect the library are in its fiscal management, personnel, policy, buildings and political dealings. When making decisions in these areas, be careful. If some action that the library is about to take seems controversial, it should send up a warning flag, and you should consider whether your action might have some legal ramifications.

State Library Laws

Current statutes should be checked for the most up-to-date information. Information presented here is general in nature; in specific situations, legal counsel should be consulted.

The sections of Idaho Code that deal specifically with city and district libraries are in Title 33. The laws governing city libraries are found in Sections 33-2601 through 33-2611. District library laws are in sections 33-2701 through 33-2729. School-community library laws are in section 33-2737 to 33-2740. Laws governing both city libraries and district libraries are in 33-2620 (“Failure to Return Borrowed Material”) and 33-2741 (“Public Library – Internet Use Policy”).

These laws cover responsibilities of trustees and librarians, annual reports, the appointment or election of trustees, donations to libraries, and the establishment, annexation or consolidation of libraries.

In some cases, library law refers to other Idaho laws. These laws include election laws, laws about public meetings, laws about public records as well as other laws relating to local governmental entities.

District Trustee Elections

District libraries are required to hold trustee elections on the third Tuesday in May of every odd year. You may be appointed by the board to act as the library district clerk and have the responsibility of coordinating the election with the county clerk.

This responsibility includes distributing and collecting nominating petitions; verifying qualifications of the nominee(s); acting as liaison with the county clerk; and issuing certificates of election.
To help you understand your duties and deadlines, the Idaho Commission for Libraries publishes a trustee election calendar and Trustee Election FAQ each year that lists important dates and deadlines. Look for this online in November on LibIdaho and the Idaho Commission for Libraries website.

The Secretary of State's Office also publishes an Election Handbook, which is available online, or you can email or call their office to get a copy. Your county clerk and your ICfL consultant will also be glad to help.

State Laws for Both Districts and City Libraries

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Bidding Requirements. The Idaho Code contains other sections that pertain to municipal or taxing district boards. Competitive bidding laws are contained in 67-2801 to 67-2809. In addition, 59-1026 defines penalties for “Willful and Knowing Avoidance of Competitive Bidding and Procurements Statutes.” 67-2348 and 67-2349 define the preference for Idaho contractors and Idaho suppliers.

Open Meeting Law. Another vitally important law is the “Open Meetings Law,” Sections 67-2340 through 67-2347. The Attorney General also has a manual explaining the law. The Open Meeting Law contains the following:

1) The definition and requirements of Open Public Meetings.
2) The requirement that notice must be given for regular, special and executive sessions. The notice must include an agenda.
3) The circumstances under which a published agenda can be amended.
4) That all meetings must be held in places that do not discriminate on the basis of race, creed, color, sex, age or national origin.
5) That all public boards provide written minutes of all meetings and that these minutes be available to the public.
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6) That board meetings be open to the public except to:
   a) Consider hiring, evaluating or disciplining a specific employee
   b) Conduct labor negotiations
   c) To consider records that are exempt from disclosure (Title 9, Chapter 3)
   d) To consider purchasing property
   e) To negotiate trade or commerce
   f) To consider its attorney’s advice in pending or possible lawsuits

7) That no final action or decisions can be made in an executive session. All votes must be taken in public sessions.

8) That members of a board who knowingly conduct or participate in a meeting in violation of this law will be subject a $50 fine for the first violation, $500 for “knowingly” violating the act, and a fine up to $500 for subsequent violations. Any action taken in such a meeting shall be null and void.

9) Provisions for “curing” an open meeting violation (67-2347).

Idaho Tort Claims Act. The "Tort Claims Act", Sections 6-902 through 6-928, contains the laws that govern board and employee liability and protection. These laws define when governmental entities, including libraries, may be held liable for damages as a result of their actions and give them authority to purchase necessary liability insurance and to pay for the premium through a separate tax levy.

Public Records Law. Another law that affects both district and city libraries is the "Public Record Act," Sections 9-337 through 9-350. This law makes the administrative records of the library, such as board minutes and policies, available to the public. But it also safeguards the privacy of library circulation records. This means that your library cannot let any person, including representatives of law enforcement agencies, examine these records without proper authorization. If in doubt, consult your attorney.

Ethics in Government. There are several sections in code that define ethical behavior: 59-701 through 59-705 (“Ethics in Government”); 59-201 through 59-210 (“Prohibitions against Contracts with Officers”) and 18-1351 through 18-1362 (“Bribery and Corruption”).
Federal Laws

Federal laws which apply to your library are generally concerned with the areas of personnel, especially in the areas of hiring and firing. For further discussion on these laws, see Section 1 Administration – Personnel.

When to Call an Attorney

In case of legal disputes, you and your board should not represent the library. You need to have an attorney's advice. If you are a city librarian, you should get to know the city attorney and understand what s/he will be able to do for you. If you are a district librarian, you should ask the board to choose an attorney and pay for an initial consultation. (And don’t forget that your Risk Management Insurance agent might be able to help.) At that time you can ask the attorney to serve as the library's legal counsel on an "as needed" basis. During this consultation you may want to tell the attorney about library issues that might be controversial and share a bit about your understanding of district library law.

Even when you are working with an attorney, however, it is important for you to have a basic understanding of the law. Library law is rarely disputed in court, so when you first approach an attorney you will probably know more about it than s/he does. You will also know a great deal more about what your library wants or needs in any given legal situation. What an attorney will bring you will be a wider perspective of how library laws fit into the general framework of law. Thus, working with an attorney should be seen as a partnership, in which both of you will be bringing important perspectives to a problem.

Help from the Idaho Commission for Libraries

The Idaho Commission for Libraries publishes a compilation of Idaho's library laws as needed. The online edition of Library Laws is updated after each legislative session. This publication contains all new additions to library laws and many other laws pertinent to libraries. If you ever call your consultant with a general legal question, you should have a copy of the law you are concerned about in front of you, so you and the consultant can thoroughly review it together.

The best way to understand the laws is to read them. Don't tackle them all at once, but read the ICfL publication section by section. Start with the specific law for your library. In the Library Laws, this law will appear in the section on colored pages. If you find something that you don't understand, call the ICfL consultant for your area. S/he will help you understand the laws and how the laws affect your library. At the same time, remember that ICfL staff members are not attorneys. While we can give you some general advice, in serious legal situations, our advice will always be to consult with your library's legal counsel.