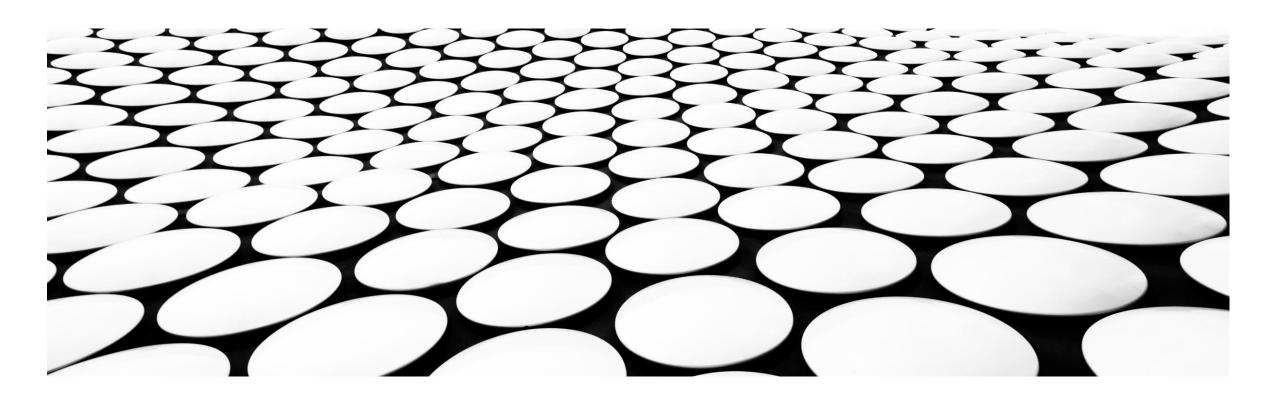
LIBRARIES AND THE LAW IN WISCONSIN

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WHO I AM AND WHAT WE'RE DISCUSSING TODAY

Associate Director of Public Services at the University of Wisconsin Law School Library

MLS ('12) and JD ('20)...so I have a law degree but I'm not your lawyer!

- Locating and reading the law
- Library Board and trustee law: Chapter 43
 - A few specific sections to know about and how to read it
 - Powers of the Board
 - Open Meetings
- Book challenges and responses
 - Local resources and WLA handout
- Other topics:
 - Library Boards and Municipalities
 - Ownership and repair
 - Bylaws and motions
- Who to ask for assistance, resources to review, and Q&A







LOCATING THE LAW

Wisconsin law is readily available!

Statutes are available on the WI Legislature page

Local ordinances are also largely available online: https://wilawlibrary.gov/topics/ordinances.php

Case law for many US jurisdictions are freely available on Google Scholar: https://scholar.google.com/

Administrative Codes are also on the WI Legislature page: https://docs.legis.wisconsin.gov/code/admin.code

Federal law is even more available!
(Ex: https://www.govinfo.gov/app/collection/uscode/2021/)

READING THE LAW: UNDERSTANDING THE STATUTE IN FIVE EASY(?) STEPS

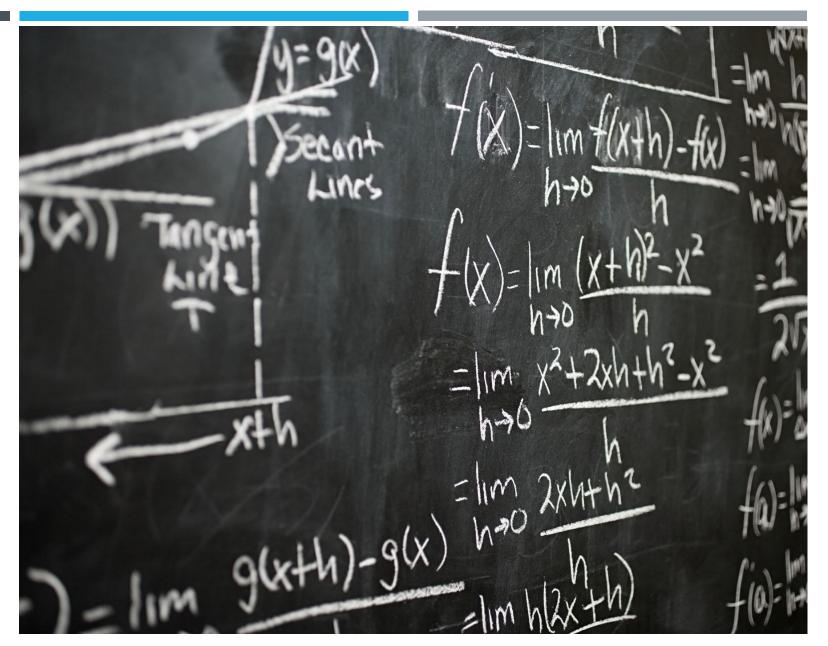
- 1. Read the statute watch for 'primary' language and note how it may affect your library.
- 2. Understand the terms being used.
 - Check for Definitions at the start of a section there may be particular meanings for particular chapters.
 - If not sure, start with the plain meaning of the term, and then dictionary terms.
- 3. Check to see if your statute has already been analyzed or interpreted by a court or an administrative agency.
- 4. Watch for references to other statutes or 'buddy' statutes (and read it in context!)
 - WI will link to related statutes that are relevant.
- 5. Finally, see if you can determine the legislative purpose if needed.
 - Watch for 'purpose' clauses or check for a legislative history (which details how the statute became law).

Terms	Function
And v. Or	"And" typically signifies a conjunctive list, meaning each condition in the list must be satisfied, while "or" typically signifies a disjunctive list, meaning satisfying any one condition in the list is sufficient
May v. Shall	Generally, "shall" signifies that certain behavior is mandated by the statute, while "may" grants the agent some discretion
Unless Except	These terms usually signify an exception to the statute
Subject to Within the meaning of For the purposes of	These terms may limit the scope of the statute, or may indicate that a certain part of the statute is controlled or limited by another section or statute
Ifthen Upon Before/After Provided that	Generally, these terms indicate that for one part of a statute to take effect, a precondition or requirement must be satisfied
Notwithstanding	Literally, "in spite of," this term usually signifies that a certain term or provision is not controlled or limited by other parts of the statute, or by other statutes
Each/Only Every/Any/All	These terms commonly limit the class of objects that are either included in or excluded from the statute



POWERS OF THE BOARD

- Chapter 43 is where many library-related laws are found.
- Primary statute sections to start with:
 - Municipal Libraries
 - Municipal Library Board Composition
 - Powers and Duties
- Some highlights:
 - Exclusive control of all library expenditures. 43.58(2)(a)
 - Exclusive control of all lands, buildings, money, and property acquired or leased by the municipality for library purposes. 43.58(1)
 - Supervising the administration of the library and appointing a librarian. 43.58(4)
 - Prescribing the duties and compensation of all library employees. 43.58(4)



Procedures for Holding a Closed Session

The following steps are **all** required for a library board (or any other government body) to conduct a closed session legally:

- 1. The meeting notice must indicate any contemplated closed session, the subject matter of the closed session discussion, and the specific statutory provision allowing a closed session. If a closed session was not planned, a board may still go into closed session on any subject contained in the meeting notice, whether the notice provides for a closed session or not, if the board follows the procedures below.
- 2. The board must first convene in open session.
- 3. The chief presiding officer must announce to all present at the meeting the intention of going into closed session and the purpose of the closed session.
- 4. The chief presiding officer must state the specific section of the law, by statute number (e.g., Section 19.85(1)(c) for a director evaluation session), which allows for the closed meeting. This announcement should be recorded in the minutes. It is good practice for library staff to prepare in advance the exact wording of the announcement to be used.
- 5. Going into closed session requires a motion, second, and roll call vote to reconvene in closed session. The vote of each board member on this motion must be recorded in the minutes and preserved. A majority vote is required to reconvene in closed session.
- Attendance at the closed session is limited to the board, necessary staff, and any other persons whose presence is needed for the business at hand.
- Closed session discussions must be limited to the subject announced in the meeting notice and the chief presiding officer's announcement.
- 8. Certain votes may possibly be legally taken in closed session. But it is a better practice and safer legally to take votes after reconvening into open session. At any rate, all board actions, whether taken in open or closed session, must be recorded in the minutes and be open to public inspection. Secret ballots are allowed only for the election of board officers.
- 9. The board may legally reconvene in open session as long as that intent was noted in the public notice of the meeting. If there was no advance public notice given that the board intended to reconvene in open session, the board is required to wait at least 12 hours after the completion of the closed session before reconvening in open session.

OPEN MEETING LAWS

- Open Meetings Laws apply to other governmental bodies beyond libraries, so the controlling statute is found in the Public Officials chapter, <u>specifically 19.81-19.98.</u>
- Some highlights and notes:
 - The meeting requires 24 notice (unless it's an emergency) and the meeting to be held in a reasonably accessible place. 19.81(2) and 19.84(3)
 - You can hold closed sessions, but only when certain conditions are met. 19.85
 - Purposes for closed sessions are listed in 19.85(1)
 - Careful with emails about Board business you may be creating an impromptu meeting that violates the open meeting law
 - Attorney General opinion from 2010
 - Penalties for violating can run from \$25-300 without reimbursement 19.96

BOOK CHALLENGE LOGISTICS

Collection

Development question

Local – no statute governing this beyond general freedom of information guidance.

Many libraries have similar procedures for when a book is challenged.

No More Neutral: How to Use Marketing to Position Your Library in Challenging Times

Monday, August 21, 2023 - 12:00

Presenter: Angela Hursh

On top of everything else they need to do, libraries increasingly find themselves at the center of controversy. The American Library Association reports a substantial increase in the number of book bans and challenges in 2022 (double the number of reports from 2021). Oftentimes, the library's efforts to create collection and service policies that fulfill its mission statement of inclusion are the focus of these challenges. These attacks cost money, lower morale, and reduce productivity amongst the staff. They also threaten the very existence of libraries. But libraries do have some power, and it comes in the form of promotion. In this session, you'll learn marketing tactics you can use now to clarify your library's policies, solidify your library's positions, and clearly communicate your mission, vision, and values. And you'll hear tactics to use to rally community and stakeholder support if your library should face such a challenge.

Three learning outcomes:

- Concrete tips for strengthening the public's perception of libraries now, including tips on how to promote their mission, vision, and values, the policies they create to protect intellectual freedom, and their place in the community as a safe and welcoming space.
- Marketing strategies for handling a censorship challenge, including strategies for responding to statements from critics via email, social media, and in the press.
- Promotional ideas designed to rally library supporters to their defense.



THE LIFE CYCLE



Board-Approved Collection Development Policy

Staff Selects

Professional Journals (e.g. Publishers Weekly, Library Journal, BookList), Magazines, Newspapers, Staff Expertise

Purchased

Baker & Taylor, Ingram, Local Bookstores, Amazon, Direct from Publisher

Processed

Stamped, Labeled, and Covered

Cataloged

Added to online catalog

Shelved

Children's, Young Adult, or Adult

Copies Added

Community demand triggers the purchase of more copies

Systems' ILS Deliveries

Checked In

Reshelved

Weeded

Deselected or damaged material given to Friends for booksale or recycling

Staff Selects New Books

Library Patron

Community Member/Taxpayer

90% of library budgets come from municipal governments (city, village, town, county, tribal, etc.)

Patron Request

Word of mouth, media mentions, newspapers, magazines, BookTok, etc.

Read in Library

Hold Placed

Interlibrary Loan (ILL) Requested

Checked Out

Returned

Material Challenged

(See other side)



WISCONSIN LIBRARY

wisconsinlibraries.org wla@wisconsinlibraries.org

When there is a BOOK CHALLENGE

Challenges to Library Materials

Libraries have policies and procedures in place to respectfully address a community member's concerns. It begins long before an item is placed in the collection.

How are **MATERIALS ADDED** to a library's collection?

- A locally appointed Library Board of Trustees develops a Collection Development Policy to guide its library's selection of materials.
- · Local library staff use their training and expertise. professional book reviews, and patron requests to purchase materials that fit the Library Board's Collection Development Policy and reflect the needs and interests of the local community.
- · Librarians locate materials in the library based on their professional expertise, knowledge of the community, and the Collection Development Policy.

What process does a library use to deal with a **MATERIALS CHALLENGE?**

The library's board-approved Collection Development Policy details a process for responding to materials challenges:

- . When a patron notifies the library of an item they believe should be removed or relocated, staff provide the patron with a materials-reconsideration form that allows the patron to express their concerns.
- . Staff review the submission; read, listen, or watch the item in its entirety; and determine whether the item complies with the Collection Development Policy.
- . The Library Director notifies the patron in writing of its decision. The patron has the opportunity to appeal the decision to the Library Board.
- · If the patron appeals the decision, the Library Board conducts its own review in relation to the Collection Development Policy. The Library Board notifies the patron of its decision in writing.



Always feel free to talk to your local library director with questions or concerns.



wisconsinlibraries.org wla@wisconsinlibraries.org

SOME LIBRARY "LAW" SITUATIONS

- Who is responsible for building upkeep and repair?
 - Start with the statute 43.58 says "The library board also shall 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."
 - But the municipality determines the amount provided and there may be contractual issues to consider.
- So, what is the relationship between municipalities and library boards?
 - Start with the statutes 43.58 (powers of the Board)
 - Consider how these are interpreted: Library Boards are generally more independent than other municipal boards to allow for more unbiased and unfettered access to information.
- What needs a motion at the Board level?
 - Robert's Rules are run at varying levels of adherence
 - Some good cheat sheets are out there, but I like this one and this one.
 - For more, check out <u>last year's webinar</u>: Effective & Efficient Meetings: Parliamentary Procedure with Nancy Sylvester.
 - Recording
 - Handout
 - Slides
 - A motion must be brought before discussion can ensue
- Municipal and county costs
 - Unlikely to find detailed answers in the statutes, but let's start there 43.12 (County payment for Library Services), 43.57 (Consolidated County Services and County Library Services, 43.60 (County Appointments to Municipal and Joint Public Library Boards), 43,64 (County Tax).
- Promoting non-government businesses
 - May be agreements in place with your municipality or county
 - Statutes can be checked, but this level of detail is again rarely found. Checking with colleagues or your system will be of use here more on that to come!
- Remember, statutes are general guideposts you can point to them for help, but details are either hashed out elsewhere or via local workflows.



RESOURCES TO REVIEW

- A guide to reading and applying statutes
- WLA's handout on the life cycle of a book and mechanics of a book challenge
- Wisconsin Statutes;
 - Chapter 43
 - Chapter 19
 - DPI Public Library Admin Code
- Department of Public Instruction:
 - <u>Trustee Essentials</u> (last updated 2020)
 - Legal Resources about libraries
- WI League of Municipalities:
 - <u>FAQs on relationship between library boards</u> and municipalities
 - Open Meeting Law FAQs
 - An overview of municipal library boards
- WI Department of Justice:
 - Open Meeting and Public Records Law overview
 - DOJ Open Meetings Law compliance law



WHO TO ASK

- Library System staff not sure which system you're in? <u>Here's a</u> <u>map!</u>
- Municipal Attorneys
- Department of Public Instruction (but only after checking with your Library System)
- Wisconsin Library Association (for referrals)

Or me, now!

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