

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

Be sure to check current statutes for the most up-to-date information. Information presented here is of a general nature; in specific situations, the library's legal counsel should be consulted.

The sections of Idaho Code that deal specifically with city and district libraries are found in Title 33: Education.

- The laws governing **city libraries** are found in Idaho Code sections [33-2601 through 33-2611](#), [33-2620](#), [33-2702\(6\)](#), and [33-2741](#).
- **District library** law is found in I.C. §§ [33-2701 through 33-2729](#), [33-2741](#), and [33-2620](#).
- Laws pertaining to **school-community libraries** are found in I.C. §§ [33-2737 through 33-2741](#) and [33-2620](#). There are currently three school-community libraries in Idaho. No new school-community library shall be established after June 30, 1994.

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

In some cases, library law refers to other sections of Idaho Code, including election laws, public meetings law, public records act, and laws relating to units of local government.

Public Library District Trustee Elections

District libraries are required to hold trustee elections on the third Tuesday in May of every odd-numbered year.

The board of a district library may appoint one of its trustees to act as the district's clerk with the responsibility of coordinating the election with the county clerk. These duties include 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 (ICfL) publishes a *Library Election FAQ and Timeline* each year that lists important dates and deadlines. The announcement of the new and revised FAQ and Timelines is made each year on LibIdaho. This publication can be found on the ICfL website's Trustees and Directors page: <https://libraries.idaho.gov/trustees-directors/>.

The Elections Division of the Idaho Secretary of State's Office also publishes general election information on its website: <https://sos.idaho.gov/elections-division/>.

State Laws for Both District and City Libraries

Be sure to check current statutes for the most up-to-date information. The information presented here is general in nature; in specific situations, the library's legal counsel should be consulted.

Bidding Requirements. The Idaho Code contains other sections that pertain to municipal or taxing district boards. Competitive bidding laws are located in I.C. §§ [67-2801 through 67-2809](#). In addition, I.C. § [59-1026](#) defines penalties for "Willful and Knowing Avoidance of Competitive Bidding and Procurement Statutes." I.C. §§ [67-2348](#) and [67-2349](#) emphasize the preference for Idaho contractors and Idaho suppliers.

Open Meetings Law. Open and honest government is fundamental to a free society. The Idaho Legislature formalized our state's commitment to open government by enacting

the Idaho Open Meetings Law in 1974. The Open Meetings Law, [chapter 2, title 74](#), Idaho Code, codifies a simple, but fundamental, Idaho value: The public's business ought to be done in public. The Office of the Attorney General of Idaho has published the *Open Meeting Law Manual*, which explains the law in Question/Answer format and cites the appropriate legal citations for each answer. The manual is available free of charge at <https://www.ag.idaho.gov/content/uploads/2018/04/OpenMeeting.pdf>.

Open Meetings Law topics include:

- The definition and requirements for Open Public Meetings;
- The requirement that both meeting notice and agenda notice must be posted for each of the library board's public meetings;
- The circumstances under which a published agenda may be amended;
- The requirement that all public meetings must be held in places that do not discriminate on the basis of race, creed, color, sex, age, or national origin;
- The requirement that all public library boards provide written minutes of all meetings and that these minutes be made available to the public within a reasonable amount of time;
- The requirement that the library board's meetings must be open to the public except to:
 - Consider hiring, evaluating, or disciplining a specific employee;
 - Conduct labor negotiations [involving a labor union];
 - To consider records that are exempt from disclosure—see Public Records Act, [chapter 1, title 74](#), Idaho Code for exempt records;
 - To consider purchasing property;
 - To negotiate trade or commerce;
 - To consider its attorney's advice on pending or possible lawsuits.
- The requirements that no final action or decisions may be made in an executive session and that all voting must be conducted in public sessions;

- The requirement that members of the library’s board who knowingly conduct or participate in a meeting in violation of this law will be subject to a monetary fine and that any actions taken in such a meeting shall be null and void;
- The provisions for “curing” an open meeting violation, I.C. § [74-208](#).

Idaho Tort Claims Act. The “Tort Claims Act,” [chapter 9, title 6](#), Idaho Code, contains the laws that govern board and employee liability and protection. These laws define when governmental entities, including public libraries, may be held liable for damages as a result of their actions and gives them authority to purchase necessary liability insurance and to pay for the premium through a separate tax levy. Note: City library buildings are usually covered by the city’s insurance. When in doubt, check with your city clerk.

Public Records Act. Another law that pertains to both district and city libraries is Idaho’s Public Records Act, [chapter 1, title 74](#), Idaho Code. 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. See I.C. § [74-108\(4\)](#). When in doubt, the library director should contact the library’s attorney or risk management provider.

Ethics in Government. [Chapter 4, title 74](#), Idaho Code, Ethics in Government, includes several sections that deal with ethical behavior.

Bribery and Corruption. [Chapter 13, title 18](#), Idaho Code includes laws pertaining to using political position for personal gain, self-interested contracts, and nepotism.

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. More information on these laws is available in the document *Human Resources: Or, And I Thought We Were Friends!*

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 library director, you should get to know the city attorney and understand what legal counsel will be able to do for you.

If you are the director of a district library, your library may already have an attorney. This information will be included in your library's *Transition Notebook*. If your library does not already have an attorney, you need to ask your board to choose an attorney and pay for an initial consultation. (Sometimes, initial consultations are free of charge. This is up to the attorney.) 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 wish 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 may find that you know more about it than she does. You may 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 the solution of a problem.

There are some attorneys in Idaho who specialize in working with public libraries, so a district library may wish to contact one of those attorneys instead of a local one.

Your library's risk management provider may also be able to help. Contact information for your risk management provider should be in your library's *Transition Notebook*.

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 [Idaho Library Laws](#) is updated after each legislative session. This publication contains all new additions to library laws and many other laws pertinent to libraries. When you call your ICfL Area Field 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 laws is to read them. Don't tackle them all at once, but read Idaho Library Laws section by section, as time permits. Start with the specific law for your library. Library laws are listed above, under State Library Laws. If you find something that you don't understand, contact your ICfL Area Field Consultant, who can help you understand the laws and how those 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.