

# **TRUSTEE TOPICS**

Prepared by the  
Kansas State Library and the  
Kansas Library Trustee Association

## **LEGAL ISSUES AND YOUR LIBRARY**

### **GOAL:**

The goal of this Trustee Topic is to explore the differences between legal responsibilities and legal issues, to make trustees aware of some of the many federal, state, and local laws, regulations, and political issues that might potentially effect a public library, and to provide resources for trustees if legal issues arise.

### **BACKGROUND:**

Members of public library boards and staffs frequently contact the State Library with or seek consultation about legal issues. Often what seems to be a legal issue is actually political, and often local political issues can be resolved through use of statutes, regulations, and Attorney General Opinions.

Serving on a working library board with broad authority over the operations of the library is more difficult than sitting on an advisory board. Public library trustees need to be aware of general legal requirements as well as specific library laws and know how, where, and when to seek expert assistance as appropriate.

### **ISSUES:**

There is a big difference between library laws and local politics. While there are many laws, regulations, and Attorney General Opinions which provide legal guidance, how these legal statements are interpreted and applied vary from community to community. Their interpretation also depends on the source of that interpretation or the prevailing attitudes in

their communities. Trustees must bear in mind that most persons in the community are not as familiar with library law as they themselves should be. Trustees must realize that more laws effect their library than merely those for which they have stated statutory responsibilities.

Legal issues are an umbrella, covering or applying to many functions of the library. These include: personnel; volunteers; materials selection; the collection and its development; automation and technology; physical facilities; customer and staff behavior; board governance, membership, and function; the library budget; intellectual freedom; customer service; and a myriad of other points or matters. The board can prepare for some of these through a strong policy manual, by striving to act within the law, by awareness of general legal requirements, and by effective planning and evaluation. However, just when trustees believe they have covered every possible occurrence, a totally unexpected contention might arise.

Library trustees deal with three kinds of laws: federal, state, and local. From these federal, state, and local laws, federal and state regulations, and Kansas Attorney General Opinions, legal issues with which library staff, customers, and trustees must deal or to which they must adhere arise.

## EXAMPLES OF FEDERAL LAWS AND REGULATIONS

Minimum wage

Fair Labor Standards Act (wages/hours)

Minor employees (employees under 17 years of age)

Children's Internet Protection Act (CIPA Internet filtering)

Internal Revenue Code (IRS)

Library Services and Technology Act (LSTA)

Americans with Disability Act (ADA)

## EXAMPLES OF STATE LAWS AND REGULATIONS

Budget laws

Library laws (Chapter 12, Kansas Statutes Annotated)

Open meeting/open records

Library board authority  
Liability

## EXAMPLES OF LOCAL LAWS

Charter ordinances  
Simple ordinances  
Library policies

## RECENT QUESTIONS ABOUT LEGAL ISSUES IN LIBRARIES (2003)

### Federal Laws:

Can a librarian or library staff member be required to retire before age 70 or be required to take disability?

How are Library Service and Technology Act (LSTA) grants awarded in Kansas?

How do we start a library foundation?

How do we get an IRC 501(c)(3) for tax exemption purposes?

We had an employee benefit fund, but recently we have received cash in lieu of benefits from the city. How should we handle this?

### State Laws:

How are public libraries in Kansas established and can they be combined with other agencies to create larger and more efficient units?

A library board member has been elected to the city council — why does he have to resign from the library board?

The city manager says we cannot have an increase in our budget until we spend down our capital improvement fund. Is that correct? Will it effect our State Aid?

The city council members have been coming in and telling the librarian how to run the library. They say the library is part of the city. Is that correct?

What if, since it has completely turned over since I was on the board, the library trustees seem to be violating the open meetings law (KOMA)?

Our library has been approached by the SRS — are public libraries obligated to provide the service they are showing in the contract they gave us?

We have done everything we were supposed to in order to increase our budget, but the county still declined to fund the increase. What recourse do we have?

Local Laws:

A patron is viewing explicit material on a library computer — I threw him out and threatened to call the police. That's all right, isn't it?

What is a charter ordinance? Does it matter any more if we have one?

We have had a very old witchcraft book challenged by a pastor in town who has his own local radio program. The board has instructed me to deal with the challenge. What should I do?

The city has limited the library budget using a simple ordinance. Is that legal?

Although we have a children's Internet use permission statement signed by parents, even those parents who signed the form have complained that their children have been ordering items charged to parental accounts over the Internet. Is the library responsible for monitoring this use of the Internet by children?