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## CHAPTER THREE

## Relevant Laws and Regulations for Libraries

**[Disclaimer:** *The information in this handbook is not legal advice. We recommend that you consult an attorney if you have any questions about how the laws apply to your library.*]

There are many federal, state, and local laws, statues, and regulations that relate to public libraries. A few of these will be explained more in depth following this non-exhaustive list from the Chief Officers of State Libraries Agencies (COSLA):

### Federal Laws

Numerous federal laws affect public libraries. A small selection of important federal laws is included here:

- American with Disabilities Act (ADA) – Civil rights legislation that makes it illegal to discriminate against people with physical, mental, or emotional disabilities.
- Children’s Internet Protection Act (CIPA) – Libraries that receive E-Rate discounts or LSTA grants for Internet connectivity or computers must filter all computers for defined categories of images.
- E-Rate - E-Rate is the commonly used name for the Schools and Libraries Program of the Universal Service Fund, which is administered by the Universal Service Administrative Company (USAC) under the direction of the Federal Communications Commission (FCC). The program provides discounts to assist schools and libraries in the United States to obtain affordable telecommunications and Internet access.
- Employment Laws – Libraries must abide by federal and state laws that prohibit discrimination in relation to hiring, promotion, and all other working conditions of employment.
- Fair Labor Standards Act (FLSA) - FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.

- Intellectual Freedom - The First and Fourth Amendments to the U.S. Constitution are integral to American librarianship. They are the basis of the concept librarians call intellectual freedom. Intellectual freedom accords to all library users the right to seek and receive information on all subjects from all points of view without restriction and without having the subject of one's interest examined or scrutinized by others.
- Intellectual Property and Copyright Law – Title 17 provides guidance on protecting intellectual property and libraries, including what constitutes Fair Use (Section 107).
- Library Services and Technology Act - A means of national funding for public library development and other related programs administered by the Institute of Museum and Library Services (IMLS). The Grants to States program, awarded by IMLS to state library administrative agencies, is the largest source of federal funding support for library services in the U.S.
- US Patriot Act - A set of federal anti-terrorism measures that lowers the standards of probable cause for obtaining intelligence warrants against suspected spies, terrorists, and other enemies of the United States.

## Maine State Statutes

The formation and operation of libraries are usually governed by state laws and regulations. Trustees should be aware of the state laws that pertain to their library. Be aware that some statutes may apply only to private nonprofit 501(c)(3) organizations. Types of laws can include the following:

- Establishment and governance of types of 501(c)(3) public libraries (see Chap. 2)
- Funding types, limitations and methods (see Chap. 2)
- Records retention requirements (see Chap. 2)
- Audit and annual report requirements (see Chap. 15)
- Open meetings act requirements (see Chap. 2)
- Freedom of Access Act (FOAA) requirements (below)
- State labor laws and prevailing wage laws (below)
- Library records confidentiality requirements (below)
- Theft of library materials (below)
- Patron records privacy (below)

## Local Statutes

There can also be local laws and regulations that apply to libraries. Trustees should be aware of these local requirements. Types of local laws can include the following:

- Municipal or city code requirements
- Local taxing limitations or requirements
- Home rule limitations

## Labor Laws

As employers, both private nonprofit and municipal boards must comply with Maine Labor Laws. Under Maine Revised Statutes Title 26 <http://legislature.maine.gov/statutes/26/title26ch0sec0.html>, these laws cover hours and wages, paid leave, and worker safety. A link to summaries of Maine labor laws is included in the resources list below.

## Open Meetings and Public Records Law

*Maine's Freedom of Access Act* (FOAA) (Title 1, Chapter 13, Subchapter 1 <http://legislature.maine.gov/statutes/1/title1ch13sec0.html>), which includes open meetings and access to public records, supports the principle that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of government business. To this end, all meetings of all state and local government bodies (including municipal library boards) must be held in places reasonably accessible to members of the public and must be open to the public, except as expressly provided by law. Maine's open meetings law provides specific requirements for meeting notice, accessibility of meetings, the conduct of meetings, and legally holding closed sessions. Violations carry significant penalties, so careful adherence to these requirements is essential.

Libraries organized as nonprofit organizations are generally exempt from following these requirements. However, we recommend that all libraries who receive any funding from their municipalities open their meetings to the public.

To properly follow open meeting and public records laws:

- Public notice of all library board and library committee meetings, including the time, the date, and place, meetings is required in ample time to allow public attendance and disseminated in a manner that will reasonably notify is required to allow ample time for public attendance.

- Notice must be disseminated in a manner that will responsibly notify the general public in the jurisdiction. In the event of an emergency meeting, local representatives of the media are to be notified by the same or faster means used to notify the members of the board.
- Meetings are open to all members of the public
- Records of the public proceedings must be made within a reasonable amount of time and available for public inspection. This record must include the date, time and place of the meeting, a record of the members present or absent, and all motions and votes taken by individual members if there is a roll call vote. An audio, video or electronic recording may serve as the public record.
- Meeting records are subject to Records Retention Requirements (Title 5, Chapter 6).
- Executive sessions may be called by a motion that indicates the precise nature of the business to be conducted. Only matters contained in the motion may be considered in the executive session. Executive sessions can only be held to discuss matters of employment, real or personal property, labor contracts, or consultation with the body's attorney.

### **Maine's Public Records Law:**

- Provides that a person has the right to inspect and copy any public record within a reasonable time of making the request. Documents should be available during reasonable office hours and at no charge unless the information must be converted or compiled in some way. A fee schedule is provided in the law.
- Failure to comply with this requirement is considered a civil violation and a penalty of not more than \$500 may be assessed.

### **Privacy of Patron Records:**

Library records that contain patron personal information or borrowing history are confidential. Maine Statute Title 27, Chapter 4-A, section 121 codifies the privacy and confidentiality of library patron records.

### **Theft of Library Materials:**

Under Maine Statute Title 17-A, Part 2, Chap. 15, libraries may request law enforcement assistance to recover stolen materials if borrowers do not return them five days after being issued a return notice.

## ADA Compliance:

### Library Building and Services Accessibility

All libraries, whether municipal or private association, are considered “places of public accommodation” and should adhere to the principles of the ADA.

### ADA Background on Building Compliance and Accessible Services

The Americans with Disabilities Act is a federal law passed in 1990. It is a civil rights law for people with disabilities that ensures people are not discriminated against because they have a disability. Two parts of the law apply particularly to public libraries. Title I requires equal employment opportunities for individuals with disabilities. Title II prohibits discrimination on the basis of disability in state and local government services (including public library buildings and services).

### General Building Access Issues

Below is a general overview of the requirements of the law. For details on each requirement, please refer to the Americans with Disabilities Act Technical Assistance Manual or contact the New England ADA Center. All buildings open to the public must meet federal specifications. There are some specific regulations for public libraries, which are discussed later in this chapter. There are also some exceptions for designated historical buildings.

### Outside the Library

- Appropriate curb cuts at the sidewalk
- Adequate parking reserved for people with disabilities with correctly painted and labeled signage
- Signage at the accessible entrance
- Ramp or a new entrance to avoid steps
- A doorbell or some other way for the person who uses a wheelchair or who cannot open the door to signal a need for assistance.
- Specified weight limit for the door
- Type of door handles that must be used

### Inside the Library

- All public areas of the building should be accessible to those with physical disabilities
- Accessible paths with the proper width doorways and aisles, turn radius, floor surface, bathroom design,
- Placement and design of water fountains
- Height of service desks
- Lever door handles instead of round doorknobs
- All levels of the building must be accessible, as well as all meeting rooms.
- Certain types of permanent directional signs must have certain font size and spacing, tactile characters and Braille, contrast, and positional mounting

### Specific ADA Regulations for Public Libraries

Public libraries must meet all the general requirements indicated above and address the following areas as well:

#### ***Reading and Study Areas***

A certain percentage of the seating area must be accessible to people using wheelchairs so that they can sit at a table. Specific clearances must be allowed between pieces of furniture so people who use wheelchairs can move between them.

#### ***Checkout Areas***

At least one part of the checkout desk has to be a specific height for people who use wheelchairs. Security gates must accommodate wheelchairs.

#### ***Library Catalogs***

There must be accessible workstations for use of an online catalog.

#### ***Magazine and Reference Areas***

There must be access to these areas for people who use wheelchairs, and there is a maximum height for shelving in these areas.

***Book Stacks***

There is not a maximum height for the general book stacks, but the library staff must accommodate people by helping them get the materials they need. There are width specifications between the book stacks and there must be a turn radius at the end of each one.

## **Types of Disabilities that May Require Accommodations to Make Library Services Accessible:**

### **Mobility Limitations**

People who use wheelchairs or have difficulty walking may have difficulty accessing library services, even if they can get into the building.

### **Blind and Low Vision**

People needing Braille, high contrast, larger print or print magnification, or audio reading services.

### **Deaf and Hard of Hearing**

People who may need sign language interpretation, audio amplification, Telecommunications Device for the Deaf (TDD or TTY) or Video Relay Interpretation (VRI)

### **Service animals**

Service animals recognized under the ADA include individually trained dogs or miniature horses that perform tasks for individuals with disabilities and must be allowed to accompany their owners in public buildings. A service animal is not a support animal or pet and library staff may ask patrons if their animals are service animals required because of a disability. They may also ask what work or task the animals have been trained to perform. Staff may not ask a service animal be removed from the premises unless it is not being kept under control by the owner or is not housebroken. Check ADA revised requirements for further clarifications on use of service animals.

### **Communication with dignity and respect**

All library patrons, including those who have any type of disability, should be welcomed and staff should make accommodations in services and programs to help every library visitor comfortable, accepted, and an active participant.

## Additional Resources

- Your Maine State Library Regional Liaison  
<https://www.maine.gov/msl/lib/districts/index.shtml>
- Public records Frequently Asked Questions (FAQ) information from the Maine Office of the Attorney General  
[www.maine.gov/foaa/faq/](http://www.maine.gov/foaa/faq/)
- Maine Association of Nonprofits Frequently Asked Questions (FAQ) [www.nonprofitmaine.org/wp-content/uploads/2010/11/FAQDisclosureRequirementsBoardMeetings.pdf](http://www.nonprofitmaine.org/wp-content/uploads/2010/11/FAQDisclosureRequirementsBoardMeetings.pdf)
- Copyright law relating to libraries  
<https://www.copyright.gov/title37/201/37cfr201-14.html>
- American Library Association. The Librarian's Guide to Intellectual Property in the Digital Age: Copyrights, Patents, and Trademarks by Timothy Lee Wherry. ©2002: Explanation of copyright "fair use."  
[http://www.ala.org/aboutala/sites/ala.org.aboutala/files/content/publishing/editions/samplers/wherryt\\_IP.pdf](http://www.ala.org/aboutala/sites/ala.org.aboutala/files/content/publishing/editions/samplers/wherryt_IP.pdf)
- ALA: Intellectual Freedom Issues and Resources  
<http://www.ala.org/advocacy/intfreedom>
- CIPA consumer's guide  
<https://www.fcc.gov/consumers/guides/childrens-internet-protection-act>
- Sample CIPA policies for libraries  
<https://www.maine.gov/msl/erate/cipa.htm>
- E-rate guide <https://www.fcc.gov/consumers/guides/universal-service-program-schools-and-libraries-e-rate>
- E-rate filing <https://www.maine.gov/msl/erate/index.shtml>
- Summary of major U.S. employment laws  
<https://www.dol.gov/general/aboutdol/majorlaws>
- Employment: Fair Labor Standards Act  
[https://www.dol.gov/agencies/whd/flsa#:~:text=The%20Fair%20Labor%20Standards%20Act%20\(FLSA\)%20establishes%20minimum%20wage%2C,%2C%20State%2C%20and%20local%20governments.&text=Many%20states%20also%20have%20minimum%20wage%20laws.](https://www.dol.gov/agencies/whd/flsa#:~:text=The%20Fair%20Labor%20Standards%20Act%20(FLSA)%20establishes%20minimum%20wage%2C,%2C%20State%2C%20and%20local%20governments.&text=Many%20states%20also%20have%20minimum%20wage%20laws.)
- Prohibited Employment Policies/Practices  
<https://www.eeoc.gov/prohibited-employment-policiespractices>



- IMLS- LSTA grants to states  
<https://www.imls.gov/grants/grant-programs/grants-states>
- Maine Municipal Association <https://memun.org/>
- Legislation Relating to Maine Libraries  
<https://www.maine.gov/msl/libs/legislation.htm>
- Theft of Library Materials (Maine Revised Statutes)  
<https://legislature.maine.gov/statutes/17-A/title17-Asec360.html>
- ALA- U.S. Patriot Act and Libraries  
<http://www.ala.org/advocacy/patriot-act>
- Americans with Disabilities Act. The most helpful section for building accessibility questions is the Title II Technical Assistance Manual available at [www.ada.gov/taman2.html](http://www.ada.gov/taman2.html).
- ADA Title III Technical Assistance Manual  
[www.ada.gov/taman3.html](http://www.ada.gov/taman3.html)
- New England ADA Center [www.newenglandada.org/](http://www.newenglandada.org/)
- Disability Law Center ADA Checklist for Libraries  
<http://disabilitylawcenter.org/wp-content/uploads/publications/ada%20checklists/ADA%20Library%20Checklist.pdf>
- Maine Human Rights Commission Laws and Guidance  
<https://www.maine.gov/mhrc/laws-guidance>
- GSA Government-wide IT Accessibility Program (Section 508)  
<https://section508.gov/manage/laws-and-policies>
- US Department of Justice, Civil Rights Division, Disability Rights Section “ADA 2010 Revised Requirements: Service Animals”  
[www.ada.gov/service\\_animals\\_2010.htm](http://www.ada.gov/service_animals_2010.htm)
- Maine Labor Laws  
[https://www.maine.gov/labor/labor\\_laws/wagehour.html](https://www.maine.gov/labor/labor_laws/wagehour.html)
- Maine State Library website: Legal Resources for Libraries  
[www.maine.gov/msl/libs/admin/legalresources.shtml](http://www.maine.gov/msl/libs/admin/legalresources.shtml)
- Your municipal attorney, your district attorney, or the Maine Attorney General

