



West Virginia Public Library Trustees Manual

2016 Edition

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To move to particular sections of the manual, click on a listing in the Table of Contents and you will be taken to that section.

Table of Contents

Introduction	5
LIBRARY BOARD ORGANIZATION	6
What Makes an Effective Library Board?.....	6
Board, Director, and Library Staff	7
Duties and Responsibilities	8
PLANNING BASICS	10
PLANNING	10
Planning Statements	11
Evaluation	11
Planning Checklist	12
POLICY MAKING	13
Basics of Policy Making	13
Who Develops Policy?.....	13
Organization.....	13
What Should You Do If Your Library Does Not Have A Policy Manual?.....	13
Distribution	14
How Are Policies Developed?	14
Types of Library Policies.....	15
PERSONNEL	18
Hiring A New Director	18
Evaluating the Library Director	21
How Do We Handle an "Episode"?	24
What If the Director Just Isn't Working Out?.....	24
Dismissal of the Library Director.....	25
Relationship between the Board and the Director.....	26
Relationship between the Board and the Staff.....	27
Summary of Responsibilities.....	28
LIBRARY FINANCE.....	29

The Board’s Role 29

The Library Budget 29

Terms and Distinctions..... 30

The Public Library Budget Process 30

Sources of Funding..... 33

EXAMPLE OF BUDGET DOCUMENTATION 35

PUBLIC RELATIONS AND ADVOCACY..... 38

 Trustees: The Link Between the Library and the Public..... 38

 Public Relations..... 38

 Advocacy 39

 Coordinating Advocacy 40

 Effective Advocacy and Lobbying..... 40

 Some Advocacy Techniques..... 41

 Promoting Good Relations with Local Government 42

 Checklist 43

FRIENDS OF THE LIBRARY AND VOLUNTEERS 44

 Relationship Between Board and Friends..... 44

 Help from Additional Organizations 45

 Volunteers..... 46

 Effectively Using Volunteers 46

 How Can Volunteers be Organized? 47

LAW AND THE LIBRARY TRUSTEE 49

 West Virginia Code, Chapter 10..... 49

 Title 173 – The Administrative Rules (AR)..... 49

 The West Virginia Sunshine Law 49

 Federal Laws 49

 Censorship..... 51

 Responsibility of the Trustee in Upholding Intellectual Freedom 53

 Risks of a Lawsuit to Board Members..... 53

THE ROLE OF THE WEST VIRGINIA LIBRARY COMMISSION 55

GLOSSARY OF TERMS..... 58

APPENDICES 62

APPENDIX A - ALA ETHICS STATEMENT FOR PUBLIC LIBRARY TRUSTEES 62

APPENDIX B - LIBRARY BILL OF RIGHTS 62

APPENDIX C - THE FREEDOM TO READ 63

APPENDIX D - SAMPLE BYLAWS 64

APPENDIX E - WEST VIRGINIA CODE 65

APPENDIX F - TITLE 173, LEGISLATIVE RULE 74

APPENDIX H - WEST VIRGINIA CODE, CHAPTER 6, ARTICLE 9A, "SUNSHINE LAW" 85

Introduction

West Virginia public libraries work hard to bring timely information and services to the citizens of the state. Increasing demands for service, rising costs of books, materials, and access to information, declining revenues and changes in technology are constant challenges. Public library trustees have the responsibility of ensuring that the library operates efficiently, effectively, and legally and continually grows and changes to meet community needs.

The West Virginia Public Library Trustee Manual was written to provide trustees, library directors, library staff, and interested individuals a general introduction to the duties, powers, and roles of library trustees.

The manual's objectives are:

- To heighten awareness of trustees' duties and responsibilities;
- To encourage trustees to become better informed;
- To provide a current information source on laws concerning public libraries and trustees; and
- To supply information for orientation of new trustees and an introduction to those interested in becoming library trustees.

This manual was originally developed by the Library Development Division of the West Virginia Library Commission in the 1980s to educate library trustees of their vital role in public library operation and development. This most recent (2016) edition builds on those earlier documents developed under the foresight and direction of past Library Development Directors James D. Waggoner (later Secretary of the Commission/State Librarian) and Karen E. Goff (now the Secretary of the Commission/State Librarian).

Development staff in state library agencies across the 50 states and U.S. territories and possessions work together regularly and share ideas and content in improving library services in our respective state. Portions of this work were shared by the Rhode Island Office of Library and Information Services, the Texas State Library and Archives, the Maryland State Department of Education Division of Library Development and Services, the Mississippi Library Commission, the State Library of Louisiana, the Wisconsin Department of Public Instruction and others. Our appreciation goes to all states and territories who partner with us in our shared effort of improving America's public libraries.

The West Virginia Library Commission welcomes reproduction of content from this manual, whether whole or in-part, for the development of public library services or in Library Science education. Reproduction for commercial purposes is prohibited.

It is the goal of the Library Development division of the West Virginia Library Commission to review and update this manual in even numbered years.

LIBRARY BOARD ORGANIZATION

What Makes an Effective Library Board?

Each trustee will bring to the board certain strengths, skills, talents and personal experience that uniquely serve the library. A well-balanced board can bring in less-experienced members who provide new viewpoints and who learn while serving. Expert knowledge in a professional or technical discipline, for example, is valuable for specific undertakings. Some boards rely almost entirely on their members for advice in such fields as construction, law, or finance. Conversely, other boards make extensive use of consultants, advisory boards, or volunteers for information.

The board as a whole should represent a broad spectrum of community interests, occupations, and areas. A board consisting of diverse viewpoints assures that the library will serve the total community. The competence necessary to fulfill all board responsibilities should be present in the composition of the board as a whole.

Collectively the library board of trustees should strive to have:

- occupational diversity
- political acumen
- business management and financial experience
- legal knowledge
- diversity in age, race and sex
- varied personal interests

Good trustees will qualify themselves as they serve. Experience is a great asset; however, effective trustee performance should to be based on the following traits:

- Interest in the library, in the community and in the way each relates to the other
- Readiness to devote time and effort to the duties of library trusteeship
- Initiative and ability to establish impartial policies for successful operation of the library
- Recognition of the importance of the library and its roles in the community
- Closeness to the community and the forces that impact the library
- Ability to work well with others
- Ability to listen effectively
- Ability to plan and carry out plans
- Devotion to the library and its progress
- Skill in board management
- An open mind and intellectual curiosity
- Sound judgment, a sense of fiscal responsibility, legal understanding, and political awareness
- Verbal and written communication skills
- Ability to relate to the public
- Availability to represent the library at public functions and meetings

Every new trustee brings his or her personal experience, skills, and talents to the board, which can benefit the library. Common sense, clear-sighted political know-how, and leadership lead the list of valued assets a trustee can bring to the board. All trustees should possess the above qualifications in varying degrees, but the most important qualification of all is an abiding interest in the library and its welfare. Trustees who have this trait and work for the library will be successful.

A sample library board trustee job description can help a community when it is searching for an ideal candidate.

JOB TITLE: Library Trustee

ACCOUNTABLE TO: The taxpayers and the people served by the library.

RESPONSIBILITIES: Responsible for working with the board to oversee the general operation of the library, establish policy and plans, determine the final budget, and conduct public relations.

DUTIES:

- Attends all board meetings
- Reads board meeting minutes and other materials sent out before the board meeting.
- Becomes informed about all phases of library operation
- Participates appropriately in board meetings
- Serves on committees as assigned by board chair
- Lends expertise and leadership to the board for the good of the library
- Actively participates in library workshops and activities
- Participates in fund raising activities
- Visits the library often and becomes acquainted with its services by using them

QUALIFICATIONS:

- Appreciation of the library and a desire to provide the best possible service for the community
- In tune with the political arena of the community

SKILLS & ABILITIES:

- Ability to work with people in a respectful manner
- Ability to lead and/or preside at board meetings in a respectful manner
- Ability to plan

Board, Director, and Library Staff

The majority of libraries have library staff in addition to the director. The only employee who reports to the board on a regular basis is the director. Other employees may report to the board when requested by the director. Understanding the relationship of the board to library staff members is vital to a smoothly running library and library services. Libraries may also have Friends of the Library group. These

are volunteer organizations formed by citizens to assist the library with fundraising, grass roots political support, and volunteering in the library.

Duties and Responsibilities

Library Board

1. Employ a competent and qualified director
2. Determine and adopt written policies to govern the operation and program of the library
3. Determine the purposes of the library and secure adequate funds to carry on the library's program
4. Know the program and needs of the library in relation to the community; keep abreast of standards and library trends; cooperate with the director in planning the library program, and support the director and library staff in carrying it out.
5. Establish, support, and participate in a planned public relations program
6. Assist in the preparation of the annual budget
7. Know local and state laws; actively support library legislation in the state and nation
8. Establish among the library policies those dealing with book and material selection
9. Attend all board meetings and see that accurate records are kept on file at the library
10. Attend regional, state, and national trustee meetings and workshops, and affiliate with the appropriate professional organizations
11. Be aware of the services of the state library
12. Report regularly to the governing officials and the general public
13. Participate in an ongoing planning process to provide excellent library services
14. Create clear lines of authority for library staff

Director

1. Acts as technical advisor to the board; recommends needed policies for board action; recommends employment of all personnel and supervises their work
2. Carries out the policies of the library as adopted by the board
3. Suggests and carries out plans for extending library services
4. Prepares regular reports embodying the library's current progress and future needs; cooperates with the board to plan and carry out the library program

5. Maintains an active program of public relations
6. Prepares an annual budget for the library in consultation with the board and gives a current report of expenditures against the budget at each meeting
7. Knows local and state laws, actively supports library legislation in the state and nation
8. Selects and orders all books and other library materials
9. Attends all board meetings other than those in which the director's salary or tenure are under discussion; may serve as secretary of the board
10. Affiliates with the state and national professional organizations and attends professional meetings and workshops
11. Makes use of the services and consultants of the state library
12. Reports regularly to the library board, to the officials of local government, and to the general public
13. Participates in an ongoing planning process to provide excellent library services

Staff

1. Understands chain of authority, who is accountable to whom, who has responsibility for what
2. Uses grievance procedure for complaints and concerns; does not go around director to the board
3. Makes reports at board meetings upon request by the director

PLANNING BASICS

PLANNING

Every library board has a fundamental duty to develop an effective library plan. It is tempting to focus on more immediate concerns and put planning indefinitely on the back burner, but a board cannot let this happen. A good plan becomes a roadmap for the library. It assists the board and the director in making decisions that are the best ones for the community being served. It also publicizes the library's priorities and its vision of the future.

The plan should reflect intense examination of the following questions:

- What is the present state of the library? How is the library meeting the needs of the community? What are the economic, political, and cultural factors that have an impact on library services? What trends can be identified as being significant to the library? What role does the library want to play in the community?
- Where should the library be in the future? What is the mission of the library? What are the goals? What does the library want to accomplish?
- How will the library get to the future? What steps should be taken? Who has responsibility for each step?
- What is the best sequence for the steps? What is the timetable for the implementation steps?
- How will the board determine when the plan has succeeded? What measurements will be used?

Planning involves looking at what is possible and considering a wide range of alternatives. Open-mindedness and creativity help to develop a plan that will direct the most effective use of library resources. Board members should keep in mind the present and future needs of the entire community served by the library. Obtaining input from members of the public, as well as from the director and staff, is critical. Also, the director and staff must have strong involvement in the formulation of the plan.

Planning is not always easy. It requires hard work, and it takes much time. It involves a thorough examination of many factors and ideas. An excellent tool in this process is the Public Library Association's (PLA) *The New Planning for Results: A Streamlined Process*. It is a good idea for each library board to have a copy of this publication and to implement it during the planning process.

In *The New Planning for Results* there is a shift from the traditional library-centered role setting to service responses based on community needs. Part Two of *The New Planning for Results* provides definitions, activities, resources needed and evaluation measures for each service response. The choice of service responses should be based in what the community wants and needs and not based on what the library has always done or what the board, director and staff feel comfortable providing.

Thirteen possible service responses are:

- Basic Literacy
- Business and Career Information
- Commons/Community Meeting and Gathering Place

- Community Referral
- Community Information
- Cultural Awareness
- Current Topics and Titles
- Formal Learning Support
- General Information
- Government Information
- Information Literacy
- Lifelong Learning
- Local History and Genealogy

Planning Statements

Plans should have a hierarchy of planning statements, including a mission statement, goals, objectives, and activities statements:

- **Mission Statement** - a tightly worded statement of the library's purpose for existing. "Its purpose is to inform the community about the library's priorities in clear and easily understood terms." Mission statements should be carefully worded to provide enough specificity to serve as a guide for the rest of the plan without being too wordy. Mission statements should be written after service responses are selected. Your goals, objectives, and activities statements will flow from your mission statement.
- **Goal** - The benefits your community (or a target population within your community) will receive because the library provides programs and services related to a specific service response.
- **Objective** - The steps the library will take to measure its progress toward reaching a goal. Every objective contains the same three elements: a measure, a standard against which to compare that measure, and a date or time frame by which time the standard should be met. For example: The number of children enrolled in the summer reading program (the measure) will increase by 10 percent (the standard to determine success) each year (the time frame).
- **Activities** - The strategies or groupings of specific actions that the library will carry out to achieve its goals and objectives. At this point the planning process becomes real to the staff for the first time for they can now see how planning will affect their day to day activities. Activities chosen must accomplish the outcomes described in the goals and objectives and the library must have the resources required to accomplish the chosen activities.

Evaluation

After the plan has been finalized and implemented, the planning process shifts to review and evaluation. The board will monitor the plan's progress. Have any goals been accomplished? Are parts of the plan out of date and in need of amendment? Are there new elements that need to be added to the plan? Plans are not set in stone. They are dynamic documents; at times it is necessary to change them. While mission statements are not apt to be changed for a long time, goals, objectives, and activities statements are likely to be altered in the review process.

Planning Checklist

1. Has the board developed a long-range or strategic plan for the library?
2. Has the board benefited from the library director's and the staff's input in the planning process?
3. Has the community had input into the planning process?
4. Has the plan been evaluated in the last year?

POLICY MAKING

Basics of Policy Making

Policy making is one of the most important functions of a library board of trustees. Policies are general statements governing library operations, rules, and use. They are vital tools that do much to determine the orderly success of the library and the course of its future development. Policies should be flexible rather than overly rigid, and should be reviewed on a regular basis. The board of trustees is responsible for adopting written policies to govern and guide all phases of library operation.

Policies should be tailored to local conditions and should flow from the library's mission statement and service responses. It is the responsibility of the library director to implement board policies through the development of library procedure. When all elements of the process are in place, the library director and staff have direction of the day-to-day operation of the library, and both the public and the staff are assured of consistent treatment in all aspects of library service.

Policies are not carved in stone!

Resources, communities, and goals change and grow.

Policies must reflect current needs and services.

Who Develops Policy?

While only boards of trustees usually have the legal responsibility and authority to make policy, experience shows that the process works best when the library director and staff are involved in researching options, drafting policies, and presenting a report, including recommendations to the board. The library's staff can gather manuals and samples from various communities, as well as the Library Development division of the West Virginia Library Commission, and can adapt them to the needs of the library.

Organization

All policies should be recorded, compiled and organized for ready access in a policy manual. A loose-leaf binder provides a useful format because it allows easy revision. For easy reference, the contents of a policy manual should be categorized and numbered under some form of topical heading. As each new policy or revision is adopted, the policy can be numbered and the date of adoption noted. The West Virginia Library Commission keeps copies of each library's policies. Revisions should be sent to the Library Development division regularly.

What Should You Do If Your Library Does Not Have A Policy Manual?

1. Ask your library director to review all of the board minutes and list all policies (with the date of adoption) and categorize them into topical headings.
2. Review the policies for legality, clarity, completeness, and comprehensiveness.
3. Use the rest of this "Policies" section/chapter to identify subjects that are missing.

4. Contact the WVLC Library Development division for sample policies.

Distribution

Every trustee should have a copy of the policy manual and be completely familiar with the rationale for each statement. A thorough understanding of all policies is essential in order to adopt new policies or revise existing ones in a knowledgeable manner. Trustees may also be called upon to defend or interpret policies to the public or governing officials.

The director is responsible for instructing personnel in the rationale of policies so that staff members understand the basis for procedures. All staff members should understand their roles and responsibilities in relation to each of the policies. Copies of the policy manual should also be available in all libraries in the system.

How Are Policies Developed?

Policy development and changes are major decisions affecting established practice and policies. Trustees should allow adequate time for policy consideration. Systematic policy development includes:

1. A statement of the condition or problem, past or present, that requires policy consideration.
2. A statement telling how any policy will contribute to the accomplishment of the library's mission, goals, and objectives.
3. A statement of all existing policies related to or affected by the policy decision.
4. A listing of policy options available, with an analysis of:
 - a) long- and short-range effects of enacting new policy,
 - b) potential side effects — good or bad — of passing each policy,
 - c) relevant legal ramifications, and
 - d) cost in terms of library resources: staff, budget, collections, and buildings.
5. A recommendation from the library director, accompanied by a summary of the corresponding rationale for changes in related policies.
6. Draft of concisely worded statement.

All policies should be reviewed annually and revised periodically in order to meet the mission, goals, and objectives of the library.

Policies benefit the library by:

- Supporting the library's mission, goals, and objectives,
- Guiding the library director and staff in implementation of board judgments,
- Providing direction and consistency in day-to-day service to community and library operation,

- Reducing uninformed decision-making and crisis responses to problem situations,
- Protecting the rights and assuring fair treatment of all patrons and staff members.

Once adopted, the policies should have the unqualified support of the entire board.

Types of Library Policies

Policies are as varied as the many different aspects of library service. Every phase of library operation should be broadly covered by a policy and implemented through library procedures. Local needs and situations will determine the content a library's policies. Sample policy manuals from other libraries are available from the Library Development division of the West Virginia Library Commission.

The following policy explanations are not intended to list all needed elements. Policies include, but are not limited to, the following:

- Access: the availability of the library and its services to residents of an area served. In a larger sense, the ability to reach sources of information through a library and its cooperative links to other information sources.
- Borrowing privileges: eligibility for library cards and expiration, type of materials available for borrowing, fees for nonresidents, and consequences for misuse of privileges.
- Cash handling/audit: the job classifications authorized to deal with cash and other monies and frequency and procedure for audit.
- Circulation of materials: loan period for various types of materials, renewal and hold processes, and fee schedule for overdue, damaged or lost materials.
- Collection development: the activities related to building a library collection, including assessing user needs, studying collection use, standards for selecting materials and maintaining the collection, which includes weeding. Includes statements of purpose of collection, subject area and material formats, and how the library will meet the needs for resources not purchased. Also includes "Request for Reconsideration of Library Resources" or other form for patron expression of concern about a particular library resource.
- Confidentiality of user records: to ensure that information about a patron and the materials a patron has checked out is confidential and may not be made available to any other person or governmental agency except through proper legal process, order or subpoena.
- Cooperation with other libraries and information providers: banding together of various groupings of libraries and other information providers with a formal or informal agreement to use or provide common services, purchase cooperatively, and share resources. The intent is to more effectively utilize resources.
- Disaster plans: how a library will deal with evacuating, storing, restoring, and replacing materials and equipment in the case of a natural or man-made disaster, including plans for restoring or providing interim library service. The disaster plan must also include how staff will respond to medical or other emergency situations in the library.
- Drug free workplace: a statement certifying that the library is a drug-free workplace and has a drug-free awareness program.

- Electronic access: methods by which patrons outside the library may access information, the catalog, etc., electronically. Also, resources which the library may access electronically.
- Exhibits and displays: explanation of what types of groups may use exhibit and display areas and for what purpose, priority of library use, length of time and types of materials allowed. Consistent conditions and limitations are important.
- Fines and fees: fines for overdue, lost or damaged material and fees for various services, including, but not limited to, borrowing of certain materials, printing fees, meeting room fees, etc. Fees are usually limited to recovering costs and providing nontraditional services.
- Gifts: gifts of money, stocks or bonds, land, books, materials or other gifts to the library and whether or what conditions made for their use are acceptable, and how to publicly recognize gifts.
- Hours of service: library's hours when open to the public, including holidays and when users may access telephone assistance if needed.
- Intellectual freedom: affirming a citizen's right to hold and express individual beliefs, and the library's obligation to provide information representing a continuum of viewpoints about specific topics and to ensure that challenges to First Amendment rights can be met and defended. This may be combined with a policy regarding censorship.
- Interagency cooperation: conditions under which the library will cooperate with other agencies, what types of cooperation will be involved, legal or other guidelines to be followed.
- Interlibrary loan: system of interlibrary cooperation that allows libraries to obtain information and materials (to borrow for a specified time period) for their users from other libraries.
- Internet acceptable use: conditions under which patrons may access the Internet at a particular library or system; may include time limits, acceptable or unacceptable types of information sought, method of storing information for later retrieval.
- Meeting room use: explanation of what types of groups may use library meeting rooms and for what purposes, priority of library use, time period of use, booking period limits, frequency of use, any fees assessed for use, whether refreshment is allowed and how it may be provided. Consistent conditions and limitations are important.
- Personnel: policies regarding employee hiring, firing, salaries, benefits, performance review, job duties, conduct, grievances, promotion, and use of substitute staff.
- Programming: philosophy of types of special events or activities the library will seek or permit to be presented and perceived value/use of such events or activities.
- Provision of library equipment and supplies for public use: whether provided and intended to promote equitable and consistent public access to and use of library-owned equipment and supplies and to protect library resources and facilities.
- Public participation and input: methods for the library's public to communicate opinions and concerns about library policies and practices, in an impartial and comfortable atmosphere with a mechanism for timely and duly considered library response.
- Public relations: how to represent the library, inform the public about and encourage use of the library, ensure accurate and professional communication, and to provide evidence of good stewardship of public funds and trust.

- Reference service: the various kinds of librarian assistance, including quick or ready reference and online searching, provided to individual library users seeking information; discusses type of service provided, length of time allowed, and variety of resources used.
- Relationship to Friends of the Library: responsibilities of Board and Friends in specific areas of library operations, legal limits to each organization's functioning.
- Responsibilities of board and director: for developing an effective library program by delineating and following clearly understood respective responsibilities.
- Rules of behavior: to provide a safe and appropriate environment within the library for use of its resources and to prohibit activities inconsistent with achievement of substantial library objectives and be concerned with the public's right of access, the safety of users and staff, and the protection of library resources and facilities.
- Service to schools, nursing homes and other institutions, including prisons/jails: discussion of whether library will provide outreach service by taking programs or materials to other locations, how the library will schedule school visits, the amount of time the library can provided to such services.
- Site establishment criteria for branches and bookmobile stops: what criteria will be used, statistics collected, forum developed for collecting public opinion, time frame for reevaluation.
- Unattended children: balancing of safety of the library for children when unaccompanied by a responsible adult, the legal ramifications of unattended children, and the needs of the library to provide service to all, including the children of the community.
- User complaints: how to deal with user complaints/concerns about materials, policies, staff, or situations in a particular library or system.

Volunteers: includes roles and responsibilities, recruitment and selection, duties and limitations, library staff relationship, and recognition and rewards.

Policy Checklist

1. Does your library have a comprehensive policy manual?
2. Does the board periodically reevaluate policies?
3. Is a copy of the latest policy manual on file at the West Virginia Library Commission?
4. Are all policies and policy changes communicated to all staff members?
5. Are you familiar with all the policies adopted by the board?
6. Do you stand ready to defend the policies if they are challenged?

PERSONNEL

Human relationships determine the inner climate of the library. Every effort should be given to make these relationships cordially cooperative and mutually understanding. Chief among these relationships, because of its effect on the overall library administration, is that between the library board and the library director.

Hiring a New Director

One of the most important functions of the governing board of trustees is the hiring of a competent library director. It may, in fact, be the most important single act undertaken by the board. Trustees should be aware of current practices in the profession, requirements imposed by the Administrative Regulations of the West Virginia Library Commission, as well as the Library Board requirements and regulations, the current needs and direction of the library, and competitive professional salaries and benefits.

Preliminary Assessment

As soon as the vacancy is anticipated, the board should meet to formulate a plan of action.

The board should make a realistic appraisal of the situation. The members should decide what qualifications the library requires in a library director and what the library has to offer the director. Offer the best salary possible to secure the services of a qualified person. Consider any added incentives or challenges offered by the job opportunity.

Look at the current situation:

What are the current needs of the library?

What qualifications are needed in the next director?

What is the reason for the job opening? Is the departing director upward-bound, retiring, or dissatisfied? An exit interview can be very helpful.

What changes, if any, are necessary to the job description and the qualification statement?

The job description might include:

- areas of responsibility
- specific duties
- initial period of evaluation
- desirable areas of expertise
- minimum qualifications and experience
- to whom the director is responsible

Method of Recruitment

A search committee can be formed from the board. This committee selects a chair and establishes a procedure for the search process.

Items to be addressed might include:

1. Timetable
2. Calendar of activities for the candidates
3. Affirmative action and equal employment opportunity requirements
4. Financial and staff resources available
5. Confidentiality and discretion
6. Record keeping of committee actions
7. Unique circumstances associated with the position and community
8. Method for involving the full board and the staff in the selection process

Advertisement

It is good practice to conduct a search even if there are staff members qualified for the position. The eligible staff members should be encouraged to apply. All should understand that the goal of the search is to select the best-suited person for the job.

All applicants should receive consideration and due process in accordance with equal opportunity laws.

The job advertisement is the primary vehicle for publicizing the vacancy and attracting applicants. It should be carefully worded and might contain the following:

- job title
- duties/responsibilities
- qualifications (including education, experience, and personal characteristics)
- salary range and minimum salary
- fringe benefits (including vacation and retirement)
- request for resume and references
- date of availability
- organization contact (preferably a specifically named person)
- closing date for applications
- an equal opportunity employer statement

The job advertisement can be distributed to major and local newspapers, library schools, the West Virginia Library Commission, national professional journals such as *Library Journal*, *Library Hotline*, and *American Libraries*

Screening

After the closing date for applications, the search committee screens all applicants, deciding between qualified and unqualified applicants. Those candidates who do not meet the requirements established for the position should be notified immediately.

Candidates who satisfy the requirements for the position become part of an official pool of applicants for further consideration.

Narrowing this pool to a list of final candidates is perhaps the most difficult part of the search committee's task. Success of the evaluation process is contingent upon the formulation of an appropriate set of criteria against which all candidates can be rated objectively. After this process is completed, the search committee should be able to agree on three to five candidates to be called for interviews. It is appropriate to send each candidate background information about the library and the community, including the library's budget and the annual report. Prior to the interviews, a plan outlining the process should be developed:

1. Designate one person to handle the planning of the interviews, making contact with the candidates to schedule the interviews.
2. Designate one person to conduct interviews with others assisting. Keep the interview team to a reasonable size, usually three to five people.
3. Identify what expenses will be paid or reimbursed and notify each candidate to be interviewed.
4. Plan the location for the interview, accommodations for the candidate, a tour of the library and community, etc.
5. Include an opportunity for the candidates to meet the library staff.
6. Allow adequate time for discussion. The interview is a mutual evaluation process. The committee should provide the candidate with a fair, accurate picture of the library, working conditions, and expectations.
7. Allow time between interviews to complete evaluation sheets while members' reactions are still fresh.

The Interview

Agree to a standard list of questions to be asked of each candidate. This makes for a smooth interviewing process and helps to assure that only legal questions are asked and that each candidate responds to the same set of questions. The interview is an important step in selecting the best-suited person for the job; proper judgment here can help reduce turnover and organizational problems.

The West Virginia Library Commission can assist trustees in developing the kind of interview questions that focus broadly on the profession as a whole, as well as enhancing the trustees' views of local needs. One topic that is important to cover with candidates is their vision of library services in the future.

The chair can wrap up the interview process with comments covering the time table for the final selection and the notification procedure.

Final Decision

After all interviews have been completed, the search committee meets to discuss the results and to rank the candidates in order of preference.

References are checked on the first choice. Following this, a recommendation is made to the full board.

Once the library board agrees on a candidate to be the new director, the chair of the library board makes an official offer that includes a written notice of appointment. Such letters of appointment typically cover position title, starting date, salary, fringe benefits, and a deadline for the candidate to respond to the offer (normally two weeks). Upon receipt of written acceptance, publicity of the appointment is usually sent to the local newspapers, to library publications, and to appropriate local officials.

Write all other candidates interviewed, thanking them and informing them of your decision only after acceptance has been received. If the first choice declines or is unavailable, the board can consider the second choice.

After the New Director Arrives

Orient the new director and assist him or her with relocation. Provide help with school and housing information and additional information on the library and the community. A subscription to the local newspaper is a valuable tool to acclimate the new library director.

Welcome the new director. News releases and photographic coverage should be arranged. Personal introductions to staff members, trustees, community representatives, and local government officials should be scheduled promptly. An open house or reception hosted by the board, and assisted by the Friends of the Library, is a standard courtesy.

It is evident that the best libraries have well-treated library directors to administer the libraries guided by trustees.

Evaluating the Library Director

Performance appraisal of the library director is an integral part of the evaluation of the library as a whole. It is a continuous process that should be used as a means toward determining the accomplishment of organizational goals and objectives and how well the library is being managed.

A formal evaluation of the director is good management practice and should be done regularly, at least on an annual basis. The evaluation should be based on the job description and/or negotiated objectives

agreed on at the time of hiring or soon thereafter. The criteria should be defined specifically, this providing the board with evidence of good management if the objectives are met.

Purposes of the Performance Evaluation:

- to provide the director with a clear understanding of the board's expectations
- to ensure that the director is aware of how well the board's expectations are being met
- to serve as a formal vehicle of communication between the board and Director
- to identify the board's actual concerns so that appropriate action can be taken
- to document the justification for salary adjustments

Methods of Evaluation

To be effective, the evaluation method and process must be designed to accommodate your specific local situation. Directors can be judged in many ways, but quality of performance is clearly the best measure.

1. Has the director managed the operation of the library so as to provide the intended services?
2. Has the director managed the staff so that operations are friendly, efficient, and cost-effective?
3. Has the director been a leader in making the library an important service in the community?
4. Has the director moved forward satisfactorily on achieving the goals and objectives outlined for the library and for the director?
5. Has the director provided sufficient information to the board so that it can perform its duties?
6. Has the director kept in touch with new trends in library service and relayed these to the staff and board?

These are among the questions boards might use in assessing the director's performance. Any evaluation of the director should be based on how the library is doing.

Is there satisfaction in the community?

Is there praise for the library?

Is there movement towards goals?

The Library Development Division of the West Virginia Library Commission has examples of director evaluations that may be borrowed.

Developing the Evaluation Process

- Board and director jointly develop a list of factors that lend themselves to objective evaluation.
- Board develops general evaluation method, criteria, rating scale, and form.
- Board and director identify goals, long-range plans, and specific areas that need attention.
- Director prepares a set of objectives with time line.
- Board reviews objectives and suggests changes, if appropriate.
- Board and director negotiate changes in objectives.
- Director and board confirm objectives.
- Director handles implementation of actions to meet objectives, including delegation of tasks to staff.
- Director makes periodic reports to board on progress toward achieving objectives.
- Board and director make revisions to objectives negotiated.
- Board conducts annual formal evaluation review.
- Board provides periodic feedback to director.
- Evaluation process repeated.

Expectations and Evaluation

Directors are accountable to many varied and sometimes conflicting constituencies. The board and the director must recognize these groups and agree on the priority of the demands of each. These constituencies might include:

1. Elected officials and the appointed governing officer who supervised other local government department heads
2. Library staff members who have diverse personal expectations for their director
3. Special interest groups who exert pressure on the director to respond to their concerns
4. Individual members of the board of trustees who have personal priorities for the library and the director

Good communication, effective public relations, a written plan, and clear policies will all help the board and director to deal with any conflicting expectations.

Remember: If the director is having a problem, give timely help—don't wait for an annual evaluation. Single episodes, slips, or errors should be disposed of when they occur and not held in waiting for an annual criticism.

The board's performance must also be evaluated as part of this process. Did the board conduct itself well, abide by the board/director divisions of responsibility, set objectives and work toward them, listen to reports, and provide needed assistance throughout the year?

The evaluation should be a constructive process. Most library directors welcome the opportunity to review past performance objectively against established criteria. A good evaluation interview will

include both strengths and weaknesses and will help the director be more effective in managing the library.

How Do We Handle an "Episode"?

Occasionally, the library director becomes involved in an "episode," which the board must handle. All too often, there may be reaction to the incident.

The board should have a policy and procedures on handling personnel complaints by the public, just as it has on handling internal personnel problems. Then any board member approached by an irate member of the public can honestly state that there is a procedure to be followed and that discussion of the problem before thorough investigation would be unfair and unproductive. Following established policy and procedures should minimize reactive results and provide for greater consistency.

If the director is aware of a personnel grievance regarding his or her employment, s/he should promptly notify the board president and chair of the Personnel Committee, who should determine whether a meeting is needed and when to notify board members. The board's role is to find the facts, ascertaining what happened by interviewing those concerned. Have staff members submit statements in writing, according to procedure. Make sure you follow your complaint and grievance procedures. The board should not act, or make public statements, until it has had an opportunity to confirm the facts. Premature decisions are hard to undo. Review all board discussion and proposed actions with your attorney.

What If the Director Just Isn't Working Out?

The time may come, even in the first year of a relationship, when it's evident to one or both sides that a parting of the ways is necessary. Any board decision needs to be fair and impartial, to avoid the risk of litigation. Guard against snap judgments, such as decisions made on the basis of a single complaint, or action based on opinion rather than fact. The director, of course, can decide to resign at any time (even if there is an employment contract, it may not be enforceable). Whatever the reason, unless you're sure the problem can be worked out and can convince the director of this, it seldom works to ask a director to stay.

Why do boards and director diverge and part? The fault is usually shared. Effective communication between the board and the director is a shared responsibility. If possible, the board and the director should review what happened. It is vital to correct a situation so that the next director and the board do not repeat the same mistakes.

An evaluation of a director – as well as a self-evaluation of a board – should be based on how the library is doing. If there is satisfaction in the community, if the board receives praise for the library, if there is movement toward goals – then board and director can afford to work it out. If somehow the community

impression of the library is that the library is not meeting its needs, then the director and board should probably part. The board should ask itself what it could do better next time and make changes accordingly to ensure a successful search and transition to a new director.

Dismissal of the Library Director

One of the most difficult situations a board may have to face is dismissing the library director. It is an action that should not be taken lightly because it will reflect on the future of the library and on the career of the director.

There is less likelihood of having to take this action if care is taken in the hiring process and the board has a well-developed evaluation procedure in place.

If efforts taken to improve the difficulty are unsuccessful, and the working relationship between the board and the director reaches a point that it is not possible to continue, then dismissal becomes a last resort.

Unless the director has a written contract with the library board, the director is an “at-will” employee. At one time, at-will employment meant that the employee could be dismissed at any time and the employee could quit at any time. In recent years, the courts have put limitations on at-will employment. At-will employees may not be fired when any of the following conditions apply:

- Public policy—firing an employee who refuses to break the law or who reports illegal activity by the employer.
- State or federal anti-discrimination laws.
- Employment contracts, such as an employee manual. To prevent an employee manual from being considered a contract, it should include a disclaimer statement.

Generally the reasons for discharge are for poor performance or infraction of rules. Both the reasons for dismissal and the procedures to be followed should be stated explicitly in writing and adopted by the board as policy. It is important to avoid vague terms. An appeals procedure should be included to ensure fairness and to protect the director from false charges.

In considering dismissal of the director, the board should ask itself the following questions:

1. Has the board acted responsibly?
2. Has the board dealt with problems as they arose?
3. Has the director received written notification of his or her dismissal and the reasons for dismissal?
4. Has the director been given a full hearing?
5. Have the charges been listed explicitly?

6. Can the board defend its position?
7. Does the board need legal advice?
8. How will the dismissal be handled with the public?
9. Do the policies need to be changed?

The board should understand that its responsibility is to provide the best possible library service. Every effort should be made to ensure that personalities and biases are not leading factors in a decision to replace the director.

Are personnel policies reviewed periodically?

Does the board refrain from intervening in matters between the staff and supervisors?

Do the board and director jointly determine the criteria to be used in evaluating the director?

Relationship between the Board and the Director

It is critical to the progress of the library that the board and director work together toward common goals in a climate that fosters a free and open exchange of viewpoints. The expectations, roles, and responsibilities of each should be clearly delineated and understood.

In accordance with the library's written personnel policies, there is generally an initial evaluation period that allows the board and the director time to develop a working relationship. During this time either party may reconsider the arrangement.

A reciprocal relationship will flourish if the board follows these guidelines:

1. Hire with enthusiasm after an appropriate search.
2. Before hiring, be clear about your expectations of the director and your goals for the library.
3. Reveal any special problems the library has.
4. Support the director (new or continuing) in pursuit of goals and objectives decided on in discussions between board and director.
5. Handle problems as they arise. Be patient with the director while sticking to the goal of excellence in library management.
6. Define the roles of the board and the director and stick to the division, but provide mutual support in performance of the roles.
7. Treat the director as a team member and leader of the library, a participant in decision making and the professional advisor and resource.
8. Call for adequate reporting from the director.

9. Encourage the director to be involved in professional activities and give financial support to this participation.
10. Support the director in his or her position as administrator and stay out of the day-to-day operation of the library. Encourage the director to feel free to talk with the board members about problems.
11. Talk about the library in the community, including praise for the director. Introduce the director to the community. Aim for visibility for board, director, and library.
12. Encourage the director to be a futurist—knowing about trends and the projects of others and being allowed to dream about ideas and to try some of them.
13. Maintain a professional relationship with the director. Pass on the good that trustees hear about their libraries. Share the successes.
14. Pay the director an adequate, progressive salary, a standard that applies to the staff as well. A contented, adequately compensated staff responds well to the direction of a head librarian and to the desires of the board.

Relationship between the Board and the Staff

A clear understanding of the relationship between the board and staff members is vital to the smooth operation of the library. Ideally, the relationship will be analogous to that of a corporate board of directors; i.e., it should be one of cordial and friendly interest, but at no time should the board, or an individual board member, intervene between a staff member and the director. The board hires the director to be the expert in management of the library, including the management of all other personnel.

Policies governing job specifications, salaries, and other terms of employment are the responsibility of the board; selection and supervision of personnel are part of the director's administrative duties.

There may be occasions when staff members go around the director and take their concerns and complaints directly to the board or to an individual board member. When this occurs, the staff member should be reminded that the board does not act on complaints from the staff except through a grievance procedure that is board policy. The proper procedure is to discuss the matter with the director. Any other action by overzealous board members will undermine the director's authority and probably produce the unhappy result of opposing factions and general disorganization within the library.

The board should not assume direct responsibility for day-to-day supervision of the staff other than overseeing the director.

Board members should not issue orders to the staff or make demands of the staff except through the director.

The board has no direct responsibility for assessing staff performance other than the director's.

There are times when it is appropriate for board members to work with staff members. Some examples of when board members may work with staff members are: in committee settings; in the long-range planning process; if requested by the director to make reports at the board meeting; and when planning library social events.

A policy should be adopted that reflects the relationship between the library board, the library director, and the staff, and it should be communicated to the staff so that it is clearly understood.

Summary of Responsibilities

Board of Trustees

- Employs a library director who meets state requirements and develops guidelines for staff selection.
- Provides adequate salary scale and fringe benefits for all employees.
- Adopts personnel policies or personnel manual.
- Recommends qualifications and candidates for board. Notifies appropriate authorities of board vacancies. Provides orientation for new trustees.
- Develops standards for evaluating library director's performance. Reviews director's effectiveness.

Library Director

- Hires and directs staff according to board policy.
- Suggests improvements needed in salary and working conditions.
- Utilizes skills and initiative of staff members to the library's advantage.
- Provides board with recommendations and materials to review.
- Maintains personnel manual.
- Recommends criteria and assists in the selection of new trustees. Participates in orientation by introducing library staff, explaining procedures, etc.
- Suggests basis for evaluation criteria. Provides materials for board to study.
- Maintains records of all personnel.

Joint Responsibilities

- Observe all local, state, and federal laws that relate to current employment practices.
- Provide in-service training for development of staff members and effective implementation of policies.
- Provide opportunity for continuing education and advancement of staff and trustees.
- Treat trustees, director, and employees with respect.

LIBRARY FINANCE

The Board's Role

One of the most important responsibilities for library trustees is determining the appropriate level of funding for the library and working to secure that funding. Libraries have historically been less than aggressive in obtaining adequate funding to support quality library programs but this is changing. More trustees are realizing that they must help the library continue to increase income in order to maintain adequate levels of library service to the community and to meet increasing information needs of citizens.

The library board has ultimate responsibility for all aspects of library financial management—from budgeting to spending to financial reporting. Government funders and the community will be much more likely to provide the resources necessary for high-quality library service when they know library finances are carefully controlled and monitored. To insure this, the board must:

- Insure careful development and approval of the budget.
- Review and approve of all library expenditures.
- Review and monitor monthly financial statements.
- Develop of policies for the handling of gifts and donations.
- Insure accurate financial reporting.
- Insure that audits are completed annually and pay careful attention to financial audits.

Library budgeting and finances are areas where the trustees and the director should work in close partnership and where high trust among them really pays off. Both trustees and staff should have a clear understanding of the budget process and a major opportunity to contribute.

The Library Budget

There are four practical characteristics that your budget document should include.

1. **Clarity:** The budget presentation should be clear enough so every board member, every employee, and every governing body member can understand what is being represented.
2. **Accuracy:** Budget documentation must support the budget figures. Be sure final budget figures accurately reflect the back-up documentation. (See Example of Budget Documentation on pages 39-41.)
3. **Consistency:** Budget presentations should retain the same format from period to period so that comparisons can be easily made. All budgets are comparative devices, used to show how what is being done now compares to what happened in the past and to what is projected to happen in the future.
4. **Comprehensiveness:** Budget reports should include as complete a picture of fiscal activities as is possible. The only way to know the true cost of the library operation is to be certain that all income and expenditure categories are included within the budget.

Terms and Distinctions

Line Item and Program Budgets: These are two of the most popular styles of budgets. The line item budget is organized around categories or lines of expenditures, and shows how much is spent on the various products and services that the library acquires. The program budget, designed to assist with planning, is organized around service programs (such as children's services, young adult services, reference services) and helps the library board and director see how much is spent on these individual areas. A program budget is usually sub-arranged in a line item style, so that the individual categories of expenditures for each program are also presented.

Operating vs. capital costs: In planning for the financial needs of the library and recording financial activities, it is important to keep operating and capital activities separated for reporting purposes. Operating activities are those that recur regularly and can be anticipated from year to year. Included as operating expenditures are staff salaries and benefits; books and other materials acquired for the library; heating, cooling, and regular cleaning and maintenance of the building; and technology expenses. Capital activities, in contrast, are those that occur irregularly and may require special fundraising efforts. These would include, for example, new or remodeled library buildings or major upgrades of technology. You should present the operating and capital activities separately within your library budget.

Income vs. expenditures: In both operating and capital budgets, you will need to show income and expenditures. Income should be broken down by the source of the funding—for instance, municipal appropriation, county appropriation, state appropriation, grant projects, gifts and donations, fines and fees, etc. Expenditures are shown in categories (or lines) representing similar kinds of products or services—for instance, wages, benefits, print materials, audio and video materials, telecommunications, staff and board continuing education, etc.

The Public Library Budget Process

Every viable public library should have a budget process that involves more than the casual updating of last year's budget. The basic steps in the budget process are:

1. Review the community's needs, demographic trends and economic conditions.

Use the knowledge you have of the past, statistics you gather from such sources as census data, and what you can find out about your community's future to determine community needs. Work with people both outside and inside the library to evaluate the library's role in the community and how that role may have to change in the coming year(s).

Use formal and informal measures to gather information: statistics, formal meetings, surveys, conversation with patrons and those who do not use the library. This gives you a chance to tell the library's story while you gather input.

2. Review the library's goals and objectives.

Ask yourself:

Which activities are needed for the library to function? These are your top priorities.

Which other activities serve the greatest needs of the groups of library patrons? These are your next priorities.

Which activities or services may be vital to significant forces in the library community? These must be considered high priority.

Which activities or services have great public visibility for library patrons? These also would be high priorities.

Remember your community's values and attitudes as well as political and fiscal realities. Use the insights of others to understand your community better, but in the end, you must decide the priority of library activities based on the course you have charted for your library.

3. Develop a timeline with assigned responsibilities and realistic dates for completion of key budget tasks.

4. Evaluate programs and services to determine needed changes and the prior year's actual costs. Determine if any of the library's activities are complete or need to be eliminated. Make sure all key staff members have input into the creation of the budget program.

5. Identify income and expenditures. Review by line item, justifying changes with workloads, circulation figures, prior demands or other data

Use your connections with state and local funding agencies to determine, as early as possible, the amount of income you will have to work with. Find out who in those agencies has the earliest grasp of upcoming income and cultivate those individuals.

Using the list of priorities you have made in Step 2, determine expenditures required to fund needed activities and services.

6. Develop an initial (trial) budget.

This is your first-run, needs-based projection, not your final proposal. It should be completed no later than the middle of the current budget year.

Slot the expenditures you have determined in Step 3 into a chart similar to Budget Costs by Activity or Program (attached). Use budget line item names down the side and your prioritized activities across the top. This will give you a grand total for each line in the end, but give you the flexibility to easily make changes within priority areas.

7. Evaluate the initial (trial) budget.

Now is the time to compare your estimated costs to estimated income and make adjustments. Perform this evaluation both internally and externally—among trustees and then with your local funding authorities (main library, city, county, etc.). Use the information from previous years' budgets for

comparison. Consider whether special funding could be found for projects that remain below the "cut line." Think again about your priorities and re-evaluate, if necessary. Use the further input from all sources to move to the next stage.

8. Develop the final budget.

Use all of the data you have gathered throughout the process thus far to prepare the final budget. Critically evaluate each service and activity once more as you assemble its costs into the line items. Look at the line items and compare them to past years. Be sure you can justify larger than normal increases in any line item or any increases beyond those recommended by your local funding authorities or any major funders. If, for example, city or state employees only receive a 4% raise this year, be prepared to defend to these major funding sources why library staff should receive a 6% raise, if that's your plan.

Make adjustments for resource realities. Maybe funding agencies anticipated increased tax revenues, but reality proved that revenues remained the same or decreased. Perhaps the library inherited a major endowment since the budget process began. Maybe census data changed and your per capita allotments have changed. By the time you assemble the final budget, you should have a relatively firm idea of your income, and you can adjust final expenditures accordingly.

9. Develop a budget presentation for funding authorities.

Be fully prepared to explain, justify and negotiate the needed financial support. The library must be presented as a basic community service and information utility. A presentation should be prepared and presented to any groups who need to know about your budget plans. Present proposed amounts for each line item and how you arrived at them. It is helpful to include a chart of previous years' expenditures to ground the new proposal.

Provide an overview of what you want to accomplish using statistics and examples. Tell about any changes in services or activities, additional acquisitions, or special points of focus.

Identify any major changes in emphasis, either increases or reductions and briefly state your reasons for the changes.

Address any additional issues that impacted your budget decisions.

10. Present the budget.

Be prepared. This is your opportunity to inform and persuade with your budget presentation. Take some time up front to find out who will be there, where the presentation will take place, any particular expectations or traditions involved, and what will happen before and after the presentation.

Use visuals to clarify. These can be handouts with several years' line items compared, overhead projections, or computer-generated presentations. Prepare the presentation to meet the expectations of your audience.

11. Make any needed revisions based the information you gather from your budget presentation(s) and on funding appropriations.

12. Approve the budget.

At your May or June board meeting, approve the budget. Once the budget is approved, no changes can be made to budget line items without further board action. Allow as much flexibility as possible within the budget document.

13. Present the budget candidly to the community.

Use a method that will work for your community audience, be it handouts at the library, a newspaper article, a public meeting, or some other appropriate means. Tell the community what it can expect and what the current funding level will and will not accomplish. Take advantage of the opportunity to let the public know of the variety of activities and services the library will be offering.

14. Assign the director and staff to implement the new budget on July 1 and manage it throughout the year.

The board's role should shift from a key one in budget planning and approval to maintaining an awareness of the expenditures and the adherence to the budget plan.

15. Review regularly scheduled financial reports.

These should include current income and expenditures, year-to-date income and expenditures, budget remaining and explanation of any major changes. Changes to the approved budget of any size must be approved by board action.

16. Work for future success in securing adequate funding by maintaining good communication with the local funding authorities. It is important that local officials understand what the library needs and what the library is accomplishing.

Information on budget development is based on Rounds, Richard S., *Basic Budgeting Practices for Librarians* (2nd ed.), Chicago: American Library Association, 1994, available by interlibrary loan from the West Virginia Library Commission.

After the library board of trustees approves the written budget document, the final step in the budget process is securing the funding needed to carry out the planned service program. Trustees, as volunteer public representatives, are especially effective budget advocates. Trustees should be involved in presenting, explaining, and supporting the library budget that was approved by the library board.

Sources of Funding

Usual sources of income for public libraries include:

- government funds, including local, state, and federal monies;
- grants and gifts;

- fines;
- fees for service; and
- community fundraising.

In addition, some libraries gain income from endowments and from interest on investments.

Government funds include the state per capita grant to public libraries, monies obtained through levies or special laws, and monies secured through requests to local government.

Public libraries in West Virginia receive funds through the West Virginia Library Commission from monies allocated by the West Virginia legislature. This money is then distributed to the public libraries on a per capita basis. The amount allocated each year may be changed by the legislature during the budgeting process. Therefore, it is important for library trustees to make contact with their legislators often to let them know how important this income is and what needs it fills in the community. Only through concerted efforts on the part of library trustees and citizens will this funding continue and increase.

Eleven West Virginia public libraries have special funding laws passed by the legislature requiring local governments to contribute to local library service. These laws were passed through concerted efforts by library trustees and state legislators to guarantee local funding for libraries. These laws also are subject to change by legislative action, and it is incumbent upon trustees to maintain contact with their legislators to assure that the laws remain intact.

Many West Virginia public libraries obtain funding through local levies. Trustees may be very effective in determining how the interests of the library will best be served in levy voting. As key figures in the local community, trustees may understand better the political advantages of different methods of levying than the library director or staff. For details on special library funding laws and levies, see Chapter 11, Article 8, Section 16 of the West Virginia Code.

Some libraries have been successful in approaching local governmental entities with requests for library funding. Again, library trustees may be able to help pave the way to a successful local government approach through networking with city council members, county commissioners, and school board members in advance of the library's request. Trustees also should play a key role in developing an appropriate budget presentation and request to local government funding sources. Trustees are natural conduits for information between the library and funding sources and should make every effort to maintain good relationships with possible funding sources, whether requests are funded initially or not.

Grants and gifts can be an excellent source of supplementary funds for special projects. In addition, community citizens are often willing to make significant donations to cover part or all of the costs of a new or remodeled library building. However, grants or donations should never be used to justify reducing or replacing the local government's commitment to public funding. Donors will quit donating, volunteers will quit working, and granting organizations will quit awarding grants to your library if they see that their efforts are resulting in reduced public funding for the library instead of improved service.

Fines may be a source of library income, but the policy of charging fines is the subject of debate. The Library Board should consider both the effectiveness of fines in encouraging the return of materials and possible adverse public relations effects when establishing a fine policy.

Fees for service may include charges for photocopying or other printing, faxing, interlibrary loan service, and other special services of the library. Fees for service are normally assessed on a cost recovery basis, and usually are not a significant addition to the library's revenue. Fees for service are discussed in the West Virginia Code, Chapter 10, Article 1, Sections 7 and 9a. Again, within legal limitations, your library policies should indicate how fees for service are determined and what fees will be charged.

Community fundraising efforts support both special projects and operating expenses of some libraries. Such efforts may include used book sales, yard sales, dinners, quilt shows, etc., and are often projects of the local Friends of the Library group. It is often more effective to concentrate on one or two major events than several smaller ones. Trustees or Friends of the Library should check to be sure that all events abide by local laws and that if special permits or insurance coverage are required, they are purchased. Trustees also can serve as vital public relations agents in community fundraising, networking with contacts in other organizations throughout the community to encourage participation in library events.

EXAMPLE OF BUDGET DOCUMENTATION

PERSONNEL \$57,457

Salaries/Wages

Library Director's salary: $10,000 + 4\% \text{ increase} = \$10,400$

Children's Librarian's salary $8,000 + 3\% \text{ increase} = \$8,240$

Cataloger's salary $8,000 + 3\% \text{ increase} = \$8,240$

Circulation Clerk 1 wages $20 \text{ hr. /wk.} \times 5.15 \times 52 \text{ wk.} = \$5,356$

Circulation Clerk 2 wages $20 \text{ hr. /wk.} \times 5.15 \times 52 \text{ wk.} = \$5,356$

Total Salaries/Wages \$37,592

FICA $37,592 \times 7.65\% \text{ library obligation} = \$2,876$

Hospitalization Professional staff (3) $\times \$362/\text{mo.} \times 12 \text{ mo.} = \$13,032$

Retirement All staff included in plan $37,592 \times 9\% = \$3,383$

Unemployment All staff covered $37,592 \times .5\% = \$188$ (See Unemployment form for your percentage)

Worker's Comp All staff covered (see form for details on computation) \$386

UTILITIES \$9,300

Electricity: monthly budget estimate $\$120 \times 12 \text{ mo.} = \$1,440$

Gas: monthly budget estimate $\$350 \times 12 \text{ mo.} = \$4,200$

Telephone: $\$243 \text{ avg.} \times 12 \text{ mo.} = \$2,916$

Water: $\$37 \text{ avg.} \times 12 \text{ mo.} = \444

Trash removal: $\$25 \text{ avg.} \times 12 \text{ mo.} = \300

CONTRACTUAL \$7,550

Insurance: contractor's estimate = \$1,500

Audit: estimate based on previous year + \$100 = \$1,100

Janitorial: $\$300 \times 12 \text{ mo.} = \$3,600$

Equipment maintenance = \$1,000

copier: \$150

computers: \$850

postage mtr: \$50

Public relations = \$350 (incr. by \$100 for addl. work) \$350

MATERIALS \$16,500

Books: $\$800 \text{ avg.} \times 12 \text{ mo.} = \$9,600$

Periodicals: Ebsco estimate = \$1,000

Audiotapes: $\$200 \text{ avg.} \times 12 \text{ mo.} = \$2,400$

Videotapes: $\$150 \text{ avg.} \times 12 \text{ mo.} = \$1,800$

CDs: $\$100 \text{ avg.} \times 12 \text{ mo.} = \$1,200$

Computer games: $\$50 \times 10 = \500

SUPPLIES \$2,500

Office supplies: $\$50 \text{ avg.} \times 12 \text{ mo.} = \600

Processing supplies: \$75 avg. x 12 mo. = \$900

Other supplies: summer reading supplies = \$500

adult programs = \$500

FURN/EQUIP \$2,850

New chair for cataloger = \$500

Card tables for meeting room = \$350

New computer for circulation = \$2,000

PROGRAMS \$1,400

Honoraria for summer reading programs 3 programs @ \$150 \$450

Honoraria for adult programs 1 program @ \$250 + 2 programs @ \$100=\$450

Other: Travel expenses for presenters \$500

TRAVEL/CE \$3,785

Transportation: Director to ALA airfare = \$550

Cataloger to OCLC car = \$300

2 staff to WVLA Fall = \$175

2 staff to Spring Fling = \$140

Lodging/meals (\$130/day):

Director to ALA = \$650

Cataloger to OCLC = \$260

2 staff to WVLC Fall = \$520

2 staff to Spring Fling = \$520

Fees: Director to ALA = \$250

Cataloger to OCLC = \$150

2 staff to WVLA = \$150

2 staff to Spring Fling \$120

HOSPITALITY \$730

Children's storyhour \$5/wk. x 36 = \$180

Summer reading programs = \$150

Summer reading party = \$250

Adult programs: 3 x \$50 = \$150

BUDGET TOTAL: \$102,072

PUBLIC RELATIONS AND ADVOCACY

Trustees: The Link Between the Library and the Public

As a channel for information between the library and the community, the trustee performs the most basic public relations role. This includes assuming the job of interpreting the programs, policies, and services of the library to the general community. Trustees should attend meetings and informal gatherings and speak up in favor of the library. Trustees may also become the "listening ear" for the library; learning from the community what their concerns are and conveying that information at board meetings. Trustees will learn to be good listeners, to ask open-ended questions, and to probe for the facts behind opinions.

The trustee's vocal and visible enthusiasm for the library will attract others. If a trustee is negative about change, discouraged by the lack of prospects for staffing, funding or building space, or lax in fulfilling trustee duties, the library is put in a negative light. A trustee who is knowledgeable, enthusiastic, and supportive of the library will serve as the library's best public relations advocate.

Trustees work together with the library director to project a positive image of the library to the community. The ability to demonstrate a positive image of the library and promote its services and programs to the community can mean the difference between a barely adequate library and one that receives wide support from the community at large and from the library's funding sources. The trustee who is an ardent supporter of the library will become known in the community as the person to whom patrons can come for information about the library's policies.

Public Relations

Besides serving as a conduit for information and support between the library and the community, trustees have several other responsibilities that are related to public relations:

- Hire a good director. It is the board's responsibility to hire the best director it can for the job.
- Provide quality service. The board should review the library's general policies manual to ensure quality service. No amount of good public relations can make up for bad service. Trustees should insure that library services are evaluated at regular intervals.

- Adopt a public relations policy. The board should work with the director to develop a strong public relations policy for the library. This public relations policy guides the library director in the development of a schedule of activities to promote the library's role and to market its services and materials.
- Explain the library budget. As the public officials responsible for the use of public library funds, trustees are accountable to the community for that money. Explaining how the library fund is expended may comprise a great deal of the trustees' "public relations" role.
- Use the library and have a library card. Trustees should be users of the library's resources and materials and should visit the library regularly. Trustees should not expect or ask for personal exceptions to the library's rules and regulations.
- Develop a library promotion program. A library promotion program is usually developed through a formal planning process in which the board and the library's staff define and enumerate goals and objectives as well as needed resources. Once developed, the plan should be reviewed and revised on a regular basis and aggressively implemented. Such a plan should include:
 1. A written set of goals and objectives directing all activities pursued.
 2. Identification of specific target audiences to which programs are directed
 3. Identification of individuals (board members, staff, volunteers, Friends of the Library members) who actively participate or perform specific duties or have special responsibilities under the plan
 4. A calendar of anticipated special events that are planned during the coming 12-month period; these events may require publicity, such as special newspaper articles, brochures, or flyers
 5. Identification of funding required to effectively implement the program. Some elements cost money, while others require the time and talents of individuals. Know where the funds and talent come from!

Advocacy

Although advocacy or lobbying still is greeted with discomfort by many library board members and staff, its negative image is changing. Lobbying for funding is nothing more than knowing where funding originates and knowing the people who control the distribution of those funds. In this sense, library board members are "lobbyists," or they would not be board members. They are appointed by the local governing bodies that are generally the primary sources of support for their library

Advocacy or lobbying is the recognized and traditional right of all citizens to be heard in matters that they feel should be addressed. Board members should regard lobbying activities as being of prime importance, a skill to be practiced and perfected, and an essential element of the public relations and awareness program. Library board members have a leadership role in library advocacy, promoting their library, generating public interest, and winning political support. As a library board member, you must

know your community. You are a bridge between the library and the community. You are the advocate for the library, and you can help the community understand its importance in all aspects of life.

Coordinating Advocacy

Library trustees can be effective spokespersons for public libraries with the state legislature and other official bodies. Trustees can coordinate efforts with other advocates by contacting the Legislative Committee of the West Virginia Library Association. The Committee will help you by discussing proposed legislation and coordinating lobbying efforts at the correct time and place with the people who can help – from elected officials to staff members of representative committees.

The American Library Association has a Washington office which tracks legislation affecting libraries and librarians and alerts its members when to contact politicians regarding proposed legislation. Coordinated efforts are best; legislation and appropriations should address the situation in general, rather than favor an individual library. Trustees should have access to ALAWON, an electronic newsletter from ALA to publications from the West Virginia Library Association, and to continued advice from the director.

Effective Advocacy and Lobbying

How can the board member become an effective lobbyist for the library? Develop the following ideas based on the board's own talents, its knowledge of the community, its understanding of the library's services and programs, and its commitment to achieving library goals and objectives:

- Know your library and libraries in general.
- Develop a program of providing information on a regular basis to the community. In addition to the formal activities, such as newspaper articles and presentations to groups and organizations, a board member might have lunch with the local newspaper editor or meet regularly with the Chamber of Commerce staff or other agency or organization which will broaden awareness of the library program.
- Get to know the local, state, and national representatives on a personal basis and become knowledgeable about their views and impressions of libraries. In this manner, board members can relate their library knowledge and concerns and, when required, influence or change any negative impressions or images that may exist.
- Make regular calls on all elected officials, as well as to other agencies or individuals, who can promote libraries, their services, and their programs. Attend events at which these officials appear and let them know why the library board representation is there.
- Involve those in the political process and invite them to library-sponsored events, activities, and organizations.
- Visit legislators and legislative sessions in Washington, D.C. or Charleston, particularly during ALA and WVLA Legislative Day activities. Join in, to the extent practical, with any legislative activity planned by library support organizations such as WVLA.

- Plan regular meetings with members of your governing body. This meeting may be an annual or more frequently scheduled event, but it should be carefully planned to provide the governing body with specific facts and figures about the needs of the library. It is also effective to spotlight your successes, as these lend credibility to requests for additional resources to support existing or proposed projects, programs, and services.
- Most importantly, change your mindset about lobbying and its importance to libraries! It is not a dirty word or concept. It is a very American concept and a right (and responsibility, too) of all citizens to participate in the decisions of government, to represent viewpoints, and to support ideas and concerns.

Some Advocacy Techniques

Speak Out. Take your case to both individuals and groups as an effective, ongoing program of library advocacy. The time to be certain your neighbors and colleagues are aware of the library's services is not just when you go before them to justify increased taxes or a building program. Ideally, every person you see will connect you with the library. This includes the people with whom you work or attend church, your children's teachers, the grocery store clerk, and, very importantly, every civic, business, and government leader.

Accept every invitation you can to speak to groups. Seek such invitations when they aren't offered spontaneously. Be sure your library has an ongoing public relations program that you can draw upon for assistance. A simple ten-minute slide tour of your library can work wonders in bringing the library to people who have never darkened its door. If your library has a home page on the Web, take its address with you for distribution. Be sure to always indicate the role the community has taken in developing and supporting the library.

Remember that it is the people of your community who own the public library, and it is those people to whom you wish to respond.

Inform the media. Your local newspaper is an ideal vehicle for library information. The press should routinely cover board activities. The library should also keep the press informed about ongoing and special programs, major additions to the collection, and special achievements and honors attained by the board and staff. Whenever you go out into the community to speak to a group, be sure the press is informed. Be sure, also, that the newsletter of the group you are addressing contains information about your speech. Whenever there is an important issue concerning your library that your state or federal legislators will be considering, your local press should be informed. If the outcome of the issue would affect your library's services significantly, it is appropriate to request editorial support. This will not only draw attention to your library, but also add a great deal of weight when sent to the lawmakers who will vote on the issue.

Write to Legislators. When writing your letters, remember the basics. Use clean stationery, preferably with a business, personal, or library letterhead. Type or word-process your letters. There is little reason to hand write anything other than a social letter or note today. If you are writing concerning a specific

piece of legislation, identify the issue or the bill. Before you actually write the message, be sure that you understand both sides of the issue under discussion. Keep it simple, straightforward and to the point.

In this day and age, email is often the most effective means of communication. By having a good relationship with your legislator, you will likely determine whether written letters or emails are your best bet. Remember to keep it simple, straightforward, and to the point.

Make personal visits. The best way to establish and maintain a good relationship with your legislators is with a personal visit. Take advantage of such events as National Library Week to ask your governing body to declare a local library week. Be sure the press is aware of such designations, and use that week to call on those persons you feel can help influence the way your citizens' library services are provided. In addition, there are times each year when state or federal legislative activity is at a minimum, and lawmakers are not in the throes of a campaign. That's the best time to visit. Take a colleague with you. A party of two or three ensures comfortable conversation and allows you to divide advocacy responsibility. All you need is about fifteen minutes.

Invite your Local Officials and Legislators to library events.

Promoting Good Relations with Local Government

Library trustees in West Virginia operate with some degree of autonomy and authority in managing their libraries. The West Virginia Code vests library boards with many powers. Other statutes govern the library's financial affairs.

Trustees must maintain good relations with local government officials if libraries are to receive adequate funds at budget time. Mayors or executive officials and superintendents of schools or others in the school structure may be ex officio members of library boards in West Virginia. Their attendance, participation and advice are an asset and should be cultivated. Their influence is an excellent base when trustees are called upon to request the funds that libraries need.

Library trustees need to map out a plan to keep in touch with members of the governing body, sharing information, preparing them to make decisions important to the library and the community it serves. The objective is to have them share a vision of the library that sets up goals and finds ways to implement them.

Honesty is important in relating to government officials. Information shared should be fully explained and related to the goals the community has for its library.

Trustees need to advocate for appropriate levels and the legally required amount of funding for the library. This includes working with the library director to justify the library's budget requests. It also includes working with officials to assure increased, rather than decreased funding for the library. Those who establish the appropriation for the public library must understand why the library needs money and what it can do with adequate funds. They also need to understand what the ramifications of underfunding might be.

This is advocacy in the finest sense – that of providing information – when library trustees make the case for the library in planned ways. This includes giving timely updates, attending meetings of funding bodies, understanding and being able to explain the budget, and never wavering in support of the library's plans.

Boards will find many ways to relate to members of other boards (for example, recreation boards, school boards, YM/YWCAs, etc.). Invitations to library events, regular newsletters or updates, personal calls on members, involvement of other boards in planning sessions, and casual meetings between individuals, all offer opportunities to increase awareness of the importance of the library in the community.

Checklist

Public Relations and Advocacy

- 1. Is the board aware of its public relations role?*
- 2. Is the board aware of its advocacy and lobbying role?*
- 3. Is the board working with the director to promote a positive image of the library?*
- 4. Has the board adopted a public relations policy for the library?*
- 5. Does the library have a library promotion program with schedule?*
- 6. Are the trustees users of the library? Do they have library cards?*

FRIENDS OF THE LIBRARY AND VOLUNTEERS

A Friends of the Library organization can be defined as a group of active volunteers who are independently organized to support, promote, improve, and expand local library services. Friends understand the importance of good library service for the community. The initial reasons for founding a Friends organization vary among libraries and usually involve advocacy, community involvement, fund raising, and public relations.

Friends are recognized as one of the most important citizen groups in the library world. Time and time again, Friends have brought benefits to libraries as a result of their activities and representation of community needs and interests. But their role and the library board's legal function are not the same.

The basic relationship, however, which best serves both groups, and therefore best serves the library, is one that is mutually communicative, cooperative, and supportive. Both groups are dedicated to promoting and improving library services; however, this relationship is affected by the distinct differences in the roles of each.

Board members serve the library officially in an advisory capacity as a legally appointed board, and are thus held legally responsible for the results of their decisions and actions.

On the other hand, Friends groups are separate, independent organizations with their own officers and organizational structure. While they cannot legally take on any of the functions assigned by law to the library board, there are a wide variety of ways Friends groups can serve their libraries.

Examples of Friends activities include:

- Raising public awareness of library services
- Presenting or sponsoring cultural and educational programs
- Conducting book sales and other fund raising activities to provide money for projects or items not covered by the library's operating budget
- Communicating the library's financial needs to the governing body or the voters.
- Advocating for increased library services and funding at the state and national levels
- Organizing and/or providing volunteers for work on specific or ongoing projects suggested by the library director
- Supporting new services that later may become part of the library's ongoing program
- Operating gift shops and/or used book stores in the library
- Sponsoring writing or poetry contests
- Recognizing exceptional performance of individual library staff members

Relationship Between Board and Friends

The relationship between the board and the Friends group should be a strong, positive one. There are a variety of ways in which the relationship can be enhanced, and the important support role of the Friends assisted, through the board's actions. Some possibilities include:

Inviting and welcoming members of the Friends to library board meetings

Encouraging at least one Friends member to serve as a regular board liaison by attending all board meetings

Developing, in cooperation with the library director and a Friends group representative, a policy clarifying the role of the Friends in relationship to the library and the library board

Providing the Friends group, on a regular basis, with information such as library board meeting agendas, minutes, and reports

Considering Friends group members for informal advisory committee membership, especially for citizen input opportunities when library goals, objectives, and priorities are being planned annually

Recognizing the Friends group's contributions and support of the library in such ways as letters to officials, certificates of appreciation, press releases, and honoring the group or selected individuals at special programs

Always supporting Friends group activities by attending their events, contributing to their fund raisers, and offering to help at their functions

Be a Friend yourself--join now!

Help from Additional Organizations

For information or assistance regarding forming a Friends group or interacting with an already established group, contact:

Friends of the Library organizations in nearby towns

The **West Virginia Library Commission**. The Commission provides information and advice for Friends groups and their libraries. Call 1-800-642-9021 and ask for Library Development for help and ideas.

The **West Virginia Library Association** occasionally sponsors conference workshops of interest to Friends groups. Check their web site (<http://www.wvla.org>) for information on Spring and Fall conference offerings.

Friends of Libraries U.S.A. (FOLUSA), an affiliate of the American Library Association (ALA). FOLUSA publishes Friends of Libraries Sourcebook, a bi-monthly newsletter, fact sheets, videos, and pamphlets on advocacy and general activities. Much of this information is available on the web site (www.folusa.org). FOLUSA meets during the ALA Annual conference each summer and during ALA Midwinter meeting.

Volunteers

Many libraries in the United States have their origins in volunteer groups – from women's clubs to the creation of public facilities from private collections. The desire to help the library may be supported through volunteerism, which is returning in popularity in our country.

Effectively Using Volunteers

The use of volunteers should be carefully planned, beginning with determining the purpose of library volunteers. Some questions that may yield answers:

Does the library have an adequate staff to provide needed services?

Are there roles volunteers can fill that make a positive contribution to library services?

Generally, volunteers are not a substitute for the core of paid staff that is necessary to provide good library service. Since volunteers are not paid, the expectation should not be for them to work as substitutes for staff or on a regular schedule. They may or may not be available consistently. Maintaining dependable library service is very important if the community's needs are to be met.

A volunteer program should have its own goals and objectives, a plan, and a management system.

It is important that staff be fully involved in developing the concept of a volunteer program. Staff should be involved in the planning process to establish roles and to iron out difficulties, and to work toward the success of the volunteer program. If this is done, staff "resistance" to the program, if any, may be eliminated. Staff should discuss what gaps might be filled by volunteers.

Some examples of staff work, which might be done by volunteers, are:

- ◆ shelving books
- ◆ checking out and receiving books (note parameters of confidentiality as specified in WV State Code, Article 1, §10-1-22, and summarized on the following page)
- ◆ setting up displays and exhibits
- ◆ processing and repairing of materials
- ◆ greeting visitors and providing basic information
- ◆ contacting patrons to inform them of availability of requested materials
- ◆ maintaining depository collections in nursing homes and other sites
- ◆ delivering books to home-bound people

And, given talents and ability along appropriate lines:

- ◆ creating press releases or radio or TV spots, and delivering them to editors and program staff during friendly visits

- ◆ planning and executing programs in the library, including story hours and demonstrations
- ◆ speaking to community organizations about the library
- ◆ developing major events such as art fairs, book sales and special observances
- ◆ helping to organize advisory groups to talk with librarians about special collections
- ◆ assisting to convey planned messages to groups and individuals about library events or special interests
- ◆ training to be a stand-in for staff members who want to attend a workshop
- ◆ undertaking special projects for which the staff does not have time, such as oral history, newspaper clipping, developing mailing lists, showing videos, and arranging for discussion groups
- ◆ data entry

Volunteers can be quite useful to providing quality public library service, although some tasks that staff may consider assigning to volunteers require some prior training and special consideration. For example, patron and circulation records contain confidential and personal information. Prior to 2016, West Virginia State Code restricted library volunteers from accessing these records. However, during the 2016 Legislative Session, Article 1, §10-1-22 of the Code of West Virginia, *Confidential nature of certain library records*, was amended to allow volunteers access to these records under the following conditions:

§10-1-22. Confidential nature of certain library records.

(a) Circulation and similar records of any public library in this state which identify the user of library materials are not public records but shall be confidential and may not be disclosed except:

(1) To members of the library staff in the ordinary course of business, including paid employees and unpaid volunteers upon completing a written confidentiality agreement which shall prevent disclosure of circulation records, personal information, and similar records of any public library except to the extent allowed under this subsection and obtaining written permission from the library director of the library system wherein he or she will be working;

(2) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or

(3) Upon appropriate court order or subpoena.

(b) Any disclosure authorized by subsection (a) of this section or any unauthorized disclosure of materials made confidential by that subsection (a) does not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subsection (a) of this section is not liable therefor.

How Can Volunteers be Organized?

Ideally, a volunteer program in a library should have a staff member in charge. Often, the program is organized and operated by a volunteer, much in the manner of such groups in hospitals, nursing homes and agencies.

Assuming a library of modest size, these are the elements of a volunteer program operation:

- ◆ A coordinator of volunteers, preferably hired, but probably a volunteer who likes to manage, has good skills in working with people, is reliable, and can give planned time
- ◆ An office or location with desk, file, telephone and computer, as well as access to a private interview area
- ◆ A list of jobs which volunteers may be invited to do, together with an estimate of the time requirement and the level of skill required
- ◆ An interview process which results in placing volunteers in the most suitable jobs
- ◆ A training program for volunteers covering job requirements, techniques and the library's functions and purposes
- ◆ A manual of operations setting policies for volunteers and including job descriptions and regulations
- ◆ A reward system coupled with evaluation. Rewards may be as simple as hours-earned mentioned in the library bulletin or local press; they should exist to say thanks to the volunteer
- ◆ A recruitment system that makes it possible for new people to join the volunteer corps
- ◆ A method for dismissing a volunteer who does not perform

LAW AND THE LIBRARY TRUSTEE

Preface

This manual only serves as an information resource and is NOT designed to replace the professional guidance of a practicing attorney. It is recommended that public libraries boards, at a minimum, have an attorney designated for the library if one is not provided by the appointing authority.

West Virginia Code, Chapter 10

Chapter 10 of the West Virginia Code, the official laws of the state, discusses the establishment, operation and governance of public libraries within West Virginia and the establishment and powers given to public library boards. The complete text of Chapter 10 is contained in the Appendix of this manual. In Chapter 10, power is given to local governing authorities to establish public libraries and boards to operate those libraries. It sets the qualifications, terms of office, compensation and other guidance regarding library trustees, explains their powers and their duties. Chapter 10 provides protections for library materials. It also sets up the West Virginia Library Commission, sets its powers, duties and responsibilities, and generally sets up the entire system of administration and governance of public library services in the state.

Title 173 – The Administrative Rules (AR)

The Code of State Rules are administrative guidelines adopted by the Legislature and maintained by the West Virginia Secretary of State. These rules dictate fiscal practices libraries and service center must follow to receive state funding, including regulations regarding the fiscal audit of library accounts. These rules were last updated by the Legislature in 2007 and contained in their entirety in the Appendix.

The West Virginia Sunshine Law

The West Virginia Code also dictates the practices of all governmental boards, including library trustees, with respect to openness of government in Chapter 6. This section, known simply as the “Sunshine Law” carefully mandates how public meetings are to be conducted with respect to notification and “openness”. The entire text of the law is included in the Appendix of this manual.

Federal Laws

Numerous federal laws affect public libraries. A selection of these laws of special interest to trustees include the following:

Americans with Disabilities Act (ADA)

It is not unusual for boards to have questions about the federal 1990 Americans with Disabilities Act (ADA). This major piece of civil rights legislation made it illegal to discriminate against people with physical, mental or emotional disabilities. It requires public facilities, such as public libraries, to make reasonable modifications or accommodations to ensure equal access for these individuals. Boards that choose not to modify the library to make it physically accessible must be able to demonstrate that people who do not have access to the building can receive substantially the same services as those who can enter the building. For more information on ADA, visit www.adaportal.org

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. It is illegal to discriminate against qualified applicants on the basis of sex, race, creed, color, religion, age, country of national origin, individual life style, or physical or mental disability. Stated policies should demonstrate that the library board makes every effort not to discriminate. Most library employees also fall under minimum wage and fair labor standards laws. Boards should consult with the library attorney regarding how these and other federal laws affect the library.

Children's Internet Protection Act (CIPA)

CIPA requires libraries that receive e-rate discounts or Library Services and Technology Act (LSTA) funds for Internet connectivity, Internet access, or computer purchases to filter all computers including staff computers. Filters must block certain defined categories of IMAGES, not text. For more information visit www.ala.org.

E-Rate (Telecommunications Act of 1996)

In 1997, the Federal Communications Commission (FCC) adopted a Universal Service Order implementing the Telecommunications Act of 1996. The order is designed to ensure that all eligible schools and libraries have affordable access to modern telecommunications and information services. Each year, as funding authorized by Congress is available, the West Virginia Library Commission is provided with discounts on authorized services, which are, in-turn, provided to libraries. These discounts are often referred to as the "E-Rate." For more information on E-Rate, contact the Director of Administrative Services at the West Virginia Library Commission. Also, visit www.sl.universalservice.org

Library Services and Technology Act (LSTA)

In 1996, the Library Services and Technology Act (LSTA) replaced the Library Services and Construction Act (LSCA), which had been in operation since the 1950s. LSTA, which is administered by the federal Institute of Museum and Library Services (IMLS), helps states develop electronic networks among libraries. These networks make it possible for libraries to share information resources as well as to provide library services to users with special needs.

LSTA funds are awarded annually and administered by the state library agencies (in our case, the West Virginia Library Commission), for purposes deemed important in and by each state. To receive funds, each state develops an LSTA Five-Year Plan, which is approved by the IMLS see (www.ims.gov). These funds are used for programs of the West Virginia Library Commission, such as those offered by Special Services Division for services to the blind and print handicapped, to support the operations of the Library Development Division providing consulting, guidance and training to libraries and for Network Services which supports telecommunications, Internet access, and hardware, Statewide projects like the Summer Library Program, Book Discussion Group kits, back-up reference service from the State Library, the West Virginia Center for the Book, WVInfoDepot, are also supported.

USA Patriot Act

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) became law on October 26, 2001. The legislation originated with Attorney General John Ashcroft, who asked Congress for additional powers to fight terrorism in the wake of the events of September 11, 2001. The USA PATRIOT Act amended over 15 federal statutes, including the laws governing criminal procedure, computer fraud and abuse, foreign intelligence, wiretapping, immigration, and the laws governing the privacy of student records. These amendments expanded the authority of the Federal Bureau of Investigation and law enforcement to gain access to business records, medical records, educational records and library records, including stored electronic data and communications. It also expanded the laws governing wiretaps and “trap and trace” phone devices to Internet and electronic communications. These enhanced surveillance procedures pose the greatest challenge to privacy and confidentiality in the library. Visit the webpages at www.ala.org/ala/oif/ifissues/usapatriotact.htm for a thorough understanding of the USA PATRIOT Act.

Libraries need to have established policies and procedures to cover situations where library records could be subpoenaed or investigated by law enforcement officials. All staff and board need to be apprised of appropriate legal processes before this situation arises. Prompt access to legal services to review any law enforcement requests is imperative.

Codes of Ethics

A code of ethics is designed to prohibit conflict between public duty and private interest by specifying rules of conduct for public officers, including library trustees. The code covers confidential information, gifts, and other economic benefits or compensations. For a sample Code of Ethics, see the Association for Library Trustees and Advocates (ALTA) Ethics Statement for Public Library Trustees in the Appendix. Professional librarians also have a Code of Professional Ethics. See the American Library Association website (www.ala.org) for more information.

Censorship

Libraries are storehouses of information. Libraries are varied and they are open to a wide range of

ideas, thoughts, formats and issues. Because people differ in what they wish to see in print or picture, individuals may not be comfortable with all of the materials in the library's collection. When this discomfort results in a demand to remove a book, film or work of art, it creates an "episode" in the defense of the right to know and access to information.

People have differing opinions as to what is appropriate for children, young adults, and even for adult library users to view on the Internet. This is an area where state and federal legislation need to be monitored continuously. Library board members need to keep current with Internet access, filtering issues and legislation through their director, through the West Virginia Library Commission, the West Virginia Library Association, and the American Library Association Washington Office. Internet access policies need to be reviewed and/ or modified on a periodic basis to meet community needs and legislative requirements.

"Censor" has come to mean an organization or person who examines material for content considered harmful and subjects it to exclusion. Censorship is thus the act of excluding, removing or deleting material. Censorship arises from personal or group opinion and convictions, which may conflict with those of other people and groups. Differences are embodied in the American ideal of democracy in which individuals have the right to think alike or differently, to choose a lifestyle, and to put forth ideas, whether popular or not. The concept that an individual has the right to choose what he or she wishes to read or see is called "intellectual freedom" or the "freedom to know, and the freedom to read."

As part of our freedom of expression, it is a right guaranteed by the United States Constitution. This freedom is expressed every day in the variety of materials selected for availability in libraries. Library trustees have the obligation to see that all persons have the right to access the materials they need and want, and to build a library that meets many needs in the community. When called upon to defend these rights, trustees have recourse to the Freedom to Read statement adopted by the American Library Association, the Association of American Publishers, and by public and other libraries throughout the country. See the Appendix for this statement and similar ones that can be added to the policy manual of your library.

In addition, libraries should adopt policies dealing with access to the borrowing records of users, in compliance with the sections of the West Virginia Code covering the confidentiality of library records (ADD APPLICABLE CITATION), other pertinent state laws, and the USA PATRIOT Act.

The American Library Association publishes an Intellectual Freedom Manual (by Rudolf Steiner. 6th ed, ALA, 2002; ISBN 0838935192) containing basic principles and interpretation and offering advice and assistance in dealing with complaints and handling the censor. Copies of this work and other materials are available from the West Virginia Library Commission

Responsibility of the Trustee in Upholding Intellectual Freedom

Trustees should provide for a process by which complaints in this area can be handled in an orderly fashion. Normally, the library director would receive any complaints and deal with the initial explanation of the library's policies. If this contact is not sufficient, a complaint form can be used to obtain details about the concern. The board of trustees is made aware of the complaint and should be prepared to address the issue when it comes to the board.

Trustees should be prepared for handling complaints by understanding the policies they have adopted. An understanding of how materials are selected and how staff utilizes reviews and other information before purchasing an item is essential. A materials selection policy is mandatory for a library. Such a policy states the general purpose of the library, its mission to offer variety and its priorities in spending materials budgets. The guidance of such a statement is useful to staff as a reminder that there are priorities that need to be satisfied.

While the usual complaint is on the controversial content of a book or other material, complaints are often made that librarians are censoring by what they choose to order and not to order (e.g., that controversial materials are simply not purchased). If the material selection policy is followed, this complaint will not be valid. Trustees need to check with the library director to monitor how the wide mission of the library is being met through its collection.

Trustees also need to understand the rationale behind their Internet access and/or filtering policies, and be able to explain and justify them to the public in case of complaint.

Risks of a Lawsuit to Board Members

The legal power of the board is derived from the board's actions as a body. These actions are subject to public scrutiny and may be challenged in court. Board members need to be well informed and knowledgeable about library issues and law in order to make informed decisions.

Any person accepting a position of public responsibility today accepts legal responsibilities and the possibility of liability. Suits are likely to include individual board members, even if trustees cannot be sued individually, however, the board can be sued collectively.

A recommended best practice is for the board to have, on retainer, an attorney knowledgeable about library law who is available to advise the board on difficult legal issues, as well as the inevitable contract and employee relations matters.

Liability insurance for the board should be a part of the liability package paid for by the library. State law is quite clear on giving powers and duties to the library board, but no law can be definitive or

anticipatory in an era of change. Library boards and their trustees can and have been sued. It is a risk that can be dealt with through proper insurance and careful attention to duty.

Most censorship episodes, for example, do not go to court but could. A resource in this area is the Freedom to Read Foundation (www.ftrf.org). This group raises funds for support of those challenged and has publications and offers advice in the area. The West Virginia Library Association has an active Intellectual Freedom Committee (www.wvla.org), which offers assistance. The American Library Association also has such a committee (Office of Intellectual Freedom, www.ala.org/alaorg/oif/), which publishes a newsletter that is a valuable source of information on censorship across the country.

A board faced with a suit will need to retain legal counsel promptly and follow the advice. (The board should never hire a lawyer who is a member of the board). Board members should be careful to avoid public discussion as individuals. The president and your legal counsel should serve as spokespersons. The library should have written policies, procedures, and a designated chain of command as to whom is the library's official spokesperson in public and media communications and legal matters. All trustees and staff members should be aware of this.

The best defense, of course, is responsible performance, observing the law, following policies and staff and board training. Library boards must perform in an ethically, accurate, and timely manner. They must also stay in compliance with policy and the law. The rule is to stay within known legal bounds and seek legal advice if you have questions about your right to take an action.

THE ROLE OF THE WEST VIRGINIA LIBRARY COMMISSION

The mission of the West Virginia Library Commission is to promote, assist, and support the development of effective and efficient library services to meet the needs of all citizens. The West Virginia Library Commission is mandated in Chapter 10-1-14 of the West Virginia Code to "give assistance, advice and counsel to all school, state- institutional, free and public libraries, and to all communities in the state which may propose to establish libraries...". This includes advising library boards regarding the operation and maintenance of public libraries. WVLC is statutorily authorized to administer state and federal programs and funds for West Virginia public libraries. The agency's vision is to see all citizens of West Virginia served by adequately funded libraries, in suitable facilities, offering a variety of materials, services, and programs to meet their diverse informational, educational, and recreational needs.

Chapter 10 of the West Virginia Code further charges the West Virginia Library Commission with performing the following activities:

- Appointing a Secretary to the Commission, who serves at will, and directs the West Virginia Library Commission under law, regulations, and policy; (West Virginia Code 10-1-13)
- Accepting gifts and establishing collections, (West Virginia Code 10-1-14)
- Publicizing the efforts of libraries; (West Virginia Code 10-1-14)
- Encouraging and providing continuing education within and among libraries; (West Virginia Code 10-1-14)
- Developing a plan for regional library services; (West Virginia Code 10-1-16)
- Serving as the state publications clearinghouse (West Virginia Code 10-1-18a)
- Developing and administering rules and regulations for the distribution of state funds designated for libraries; (West Virginia Code 10-1-20)
- Collecting and preserving statistics and other data concerning libraries; (West Virginia Code 10-1-21)
- Conducting surveys related to the needs or conditions of libraries in the state and publishing the survey results and findings; (West Virginia Code 10-1-21)
- Establishing cooperation among libraries and entering into cooperative library agreements; (West Virginia Code 10-1A-1,3)
- And performing such other service in behalf of public libraries as it may consider for the best interest of the state. (West Virginia Code 10-1-14)

The West Virginia Library Commission is a primary resource on library-related issues. Its commissioners and staff work to provide the library community with encouragement, support, and guidance.

WVLC Agency Organization

West Virginia Library Commissioners are appointed by the Governor and confirmed by the Senate. Three members are appointed from each of the Congressional districts. The Commissioners meet regularly in open meetings to set and review the progress of the strategic plan, to adopt the annual budget proposal, and to adopt policies and rules on library issues. The Commissioners receive staff reports, and hold public hearings on major issues of planning and policy.

The **Secretary**, appointed by the Commissioners, acts as the State Librarian and directs the daily operations of the West Virginia Library Commission under the established law and budget, and implements the plans, regulations and policies adopted by the Commissioners. The Secretary is responsible for the selection of personnel and administers their employment under the West Virginia Division of Personnel regulations. The Secretary is responsible for the management of the annual budget adopted by the Legislature and the strategic plan adopted by the Commissioners. The Secretary prepares the Commissioners' meeting agenda and coordinates the presentation of staff reports to the Commissioners. The Secretary works on issues affecting libraries with: the Secretary of Education and the Arts; public library boards of trustees; library directors and staff; the West Virginia Library Association, and related local, state, and federal agencies and organizations.

Administrative Services manages the business aspects of the agency. Budget, accounting, personnel, purchasing, and inventory are some of the many issues addressed. The division also directs agency communications, which prepares and coordinates communications to libraries and the news media on the activities of the agency and activities and issues affecting libraries. Additionally, it designs and prints posters and publications to inform the public and enhance the image of libraries across West Virginia.

Executive Services, Administrative Services, Agency Building Services and the Library Television Network are the components of the division.

Library Development Services strengthens library services in West Virginia by providing leadership, continuing education, and support to public libraries, by encouraging cooperation among all types of libraries, and by promoting the role and value of libraries through statewide and local projects. The division focuses on the areas of continuing education, adult services, youth services collection development, and general consulting to library trustees and directors. It collects and analyzes library statistical data, monitors compliance with the Commission's administrative rules and regulations, and administers grants funded by the federal Library Services and Technology Act.

The West Virginia Center for the Book, promoting literature, writing and learning within the state is also managed by Library Development Services. The Center is operated in collaboration with West Virginia Humanities and with the Library of Congress.

State Library Services, located at the Culture Center on the Capitol grounds, provides reference and information services to state government, to public libraries, and to the general public. It administers the State Publications Clearinghouse that distributes state documents to a network of depository libraries throughout the state. It's Technical Services Section trains and advises public library personnel in aspects of collection management and bibliographic control, and maintains state resource-sharing bibliographic networks.

Network Services administers the Statewide Library Network that supports online library catalogs and Internet access in public libraries. Network Services technicians are based in Charleston and in strategic locations throughout the state to maintain the integrity of network hardware and software and to provide every public library assistance with computer related services.

Special Services administers library service to residents who are unable to read or use standard print materials because of visual or physical impairment. As the West Virginia Regional Library of the National Library Service for the Blind and Physically Handicapped (NLS) in the Library of Congress, this free program loans recorded and Braille books and magazines, music scores in Braille and large print, and specially designed playback equipment to eligible patrons. In addition, Special Services records two popular state magazines, *Goldenseal* and *Wonderful West Virginia*, provides large print books and descriptive videos, and subscribes to *Newsline*, an automated newspaper service offering local and national newspaper content via the telephone.

GLOSSARY OF TERMS

Accredited Library School-A college or university teaching library and information science at the master's degree level that has qualified for accreditation under requirements of the American Library Association. For a list of the ALA-accredited library schools, see the web site at www.ala.org.

Activity-In the planning process, the means used to accomplish an objective.

Affiliate Library-A library, established under Chapter 10 of the West Virginia Code, which meets the West Virginia Library Commission requirements to provide at least 30 hours of service per week, has a minimum annual local income of \$5,000, and is assigned to a service center.

American Library Association (ALA)-A national association founded in 1876 to promote library service and librarianship; national conferences are held each year in different parts of the country.

Americans with Disabilities Act (ADA)-A federal act giving civil rights protections to individuals with disabilities. It impacts libraries as service providers and as employers.

Automation-All aspects involved in using a computer system for such tasks as circulation, cataloging, acquisitions, interlibrary loans, etc.

Branch Library-A library with separate quarters, a permanent basic collection of books, a permanent staff, and a regular schedule, and is under the administration of a central library.

Censorship-An attempt by an individual or group to have materials removed from the library. See also "Intellectual Freedom."

Chapter 10-The portion of the West Virginia Code which provides statutory authority for libraries in West Virginia.

Circulation-The activity of lending materials to borrowers and the recording of such loans.

Collection-The total materials in the library.

Collection Development-A planned process of selecting, acquiring, and managing library materials to meet the needs of a library's community.

Continuing Education-Opportunities provided to personnel and trustees for improvement and growth in their duties.

Database -The entire collection of information stored in a computer in machine-readable form; the computer with the database may be either in the library or in a remote location. For example, the patron database includes all of the information needed to identify a patron such as name, address, and telephone number.

Designate Library-A library that has met the West Virginia Library Commission requirements for direct receipt of grants-in-aid. A designate library has an MLS director and has at least \$75,000 in local funds annually.

Disaster Plan-A document that outlines a systematic and planned response to safeguard records and other materials from potential disasters (floods, fire, roof collapse, etc.). Identifies most valuable and vulnerable parts of the collection and provides the method for removal and recovery of materials. Disaster planning is the physical act of gathering information, identifying resources, outlining resources, outlining responsibilities, and formulating plans in response to possible disasters.

Fair Labor Standards Act (FLSA)-A federal law that establishes minimum wage, overtime pay, record keeping, and child labor standards.

Fiscal Year (FY)-A 12-month accounting period based upon the budget of the organization. The fiscal year of the State of West Virginia is July 1 to June 30. FY06 indicates the fiscal year ending on June 30, 2006. The federal fiscal year is from October 1 to September 30.

Friends of the Library (FOL)-A group of concerned citizens, formally organized, who actively participate in helping the library.

FTE-Full time equivalent. In reference to employees, this means that in a library with a 40 hour work week, one person working 25 hours per week and one person working 15 hours per week equal one FTE.

Goal-In planning, a broad and unspecific general statement of a desired or future condition which flows from the mission statement.

Governing Authorities-County Commission, Board of Education, and the Municipality.

Grants-in-Aid (GIA)-State funding provided to public libraries on a per capita basis. In FY05, the per capita amount was \$4.06.

Input Measure-A measurement of the library's resources such as staffing, materials, funding, etc.

Intellectual Freedom-The right of individuals to exercise their freedom of inquiry, exclusive of invasion of privacy; this right is supported by the American Library Association and individual libraries through their commitment to the Library Bill of Rights and the Freedom to Read Statement as the rationale upon which librarians and media specialists should serve the people.

Internet-Global system of computer networks for the purpose of transmitting and receiving information.

Interlibrary Loan (ILL)-A transaction in which library material or photocopies of material are loaned by one library to another for the use of a patron

LSTA-Library Services and Technology Act-Federal legislation that provides funds for library services. The funds allocated to this program are distributed to state library agencies annually to address the

goals of LSTA according to each state's long range plan. The West Virginia Library Commission administers LSTA funds in West Virginia.

Mission Statement-A statement of overall or basic purpose; the primary reason for existence. A mission statement is generally expressed in abstract terms and communicates the library's purpose to internal and external constituencies. The statement should explain what the library does, differentiate it from other organizations, and provide guidance for related subsequent planning activities such as the development of goals, objectives, strategies, and service responses.

MLS-Master of Library Science degree; may also be MLIS, Master of Information Science. These degrees are awarded by higher education institutions accredited by the American Library Association.

Objective-In planning, a statement describing a single, specific measurable result to be achieved within a specified time period in order to move closer to achieving a goal.

OCLC-Online Computer Library Center; a national shared cataloging data service.

Output Measure-In planning, the result of the collection, analysis, and organization of objective, quantitative data.

Patron-A library user or customer.

Planning-The process by which a library envisions its future and develops the necessary objectives and actions to achieve those future goals.

Policy-A clearly written statement passed by formal motion of the board of trustees which establishes the terms of the library's operation. A policy gives general guidelines for making decisions in the administration of the library.

Public Library-In West Virginia, a public library is organized under Chapter 10-1-1 of the West Virginia Code. Each public library is maintained wholly or in part by funds derived by taxation and provides services without charge to all residents of a county.

Public Relations-The cultivation of good relations between the library and its public. It includes such things as good service, publicity, and sensitivity to the user's needs and wants.

Request for Proposal (RFP)-The document used to advertise for vendor proposals, such as automation, equipment and/or software. Usually the RFP contains detailed specifications of the goods or services wanted.

Service Center Library-A library managed by a director with an MLS degree and with a second MLS degreed librarian on staff. A service center has local funding of at least \$75,000 annually and has affiliate libraries assigned by the West Virginia Library Commission.

Sunshine Law-West Virginia Code Chapter 6, Article 9A that requires all meetings of public agencies, including library boards, be open to the public.

Telecommunications-The exchange of information by electrical transmission over great distances (i.e., telephone lines); telecommunications technology connects terminals to computer systems.

Trustee-A person appointed to a public library board for a specific term of office who is legally responsible for the administration of the library. The library board functions in accordance with Chapter 10 of the West Virginia Code.

Union Catalog-A catalog listing the holdings of two or more libraries, generally established through cooperative effort; used especially for interlibrary loans.

Weeding-The selecting of library materials from the collection to be discarded or transferred to storage based on standards of use, currency, and community needs.

West Virginia Library Association (WVLA)-A statewide organization of public, academic, school, and special librarians, Friends of the Library groups, and library trustees.

West Virginia Library Commission (WVLC)-The official state library agency in West Virginia which gives assistance, advice and counsel to all libraries in the state. It is charged with administering Chapter 10 of the West Virginia Code and Title 173 of the Code of State Rules.

www-World Wide Web-Global network of information servers that use a specific protocol for communication.

Z39.50-An international standard defining a protocol for computer-to-computer information retrieval, which makes it possible for a user in one system to search and retrieve information from other computer systems without knowing the search syntax used by those other systems.

APPENDICES

APPENDIX A - ALA ETHICS STATEMENT FOR PUBLIC LIBRARY TRUSTEES

Trustees must promote a high level of library service while observing ethical standards.

Trustees must avoid situations in which personal interests might be served or financial benefits gained at the expense of library users, colleagues, or the institution.

It is incumbent upon any trustee to disqualify himself or herself immediately whenever the appearance of a conflict of interest exists.

Trustees must distinguish clearly in their actions and statements between their personal philosophies and attitudes and those of the institution, acknowledging the formal position of the board even if they personally disagree.

A trustee must respect the confidential nature of library business while being aware of and in compliance with applicable laws governing freedom of information.

Trustees must be prepared to support to the fullest the efforts of librarians in resisting censorship of library materials by groups of individuals.

Trustees who accept appointment to a library board are expected to perform all of the functions of library trustees.

APPENDIX B - LIBRARY BILL OF RIGHTS

Adopted June 18, 1948

Amended February 2, 1961 and June 27, 1967, by the ALA Council

The Council of the American Library Association reaffirms its belief in the following basic policies which should govern the services of all libraries.

1. As a responsibility of library service, books and other library materials selected should be chosen for values of interest, information and enlightenment of all the people of the community. In no case should library materials be excluded because of the race or nationality or the social, political, or religious views of the authors.
2. Libraries should provide books and other materials presenting all points of view concerning the problems and issues of our times, no library materials should be proscribed or removed from library because of partisan or doctrinal disapproval.

3. Censorship should be challenged by libraries in the maintenance of their responsibility to provide public information and enlightenment.
4. Libraries should cooperate with all persons and groups concerned with resisting abridgement of free expression and free access to ideas.
5. The rights of an individual to the use of a library should not be defined or abridged because of his age, race, religion, national origins or social or political views.
6. As an institution of education for democratic living, the library should welcome the use of its meeting rooms for socially useful and cultural activities and discussion of current public questions. Such meeting places should be available on equal terms to all groups in the community regardless of the beliefs and affiliations of their members, provided that the meetings be open to the public.

APPENDIX C - THE FREEDOM TO READ

A joint statement by the American Library Association and the Association of American Publishers originally issued in May of 1953.

1. It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those which are unorthodox or unpopular with the majority.
2. Publishers, librarians and book sellers do not need to endorse every idea or presentation contained in the books they make available. It would conflict with the public interest for them to establish their own political, moral or aesthetic views as a standard for determining what books should be published or circulated.
3. It is contrary to the public interest for publishers or librarians to determine the acceptability of a book on the basis of the personal history or political affiliations of the author.
4. There is no place in our society for efforts to coerce the taste of others, to confine adult to the reading matter deemed suitable for adolescents or to inhibit the efforts of writers to achieve artistic expression.
5. It is no the public interest to force a reader to accept any book the pre-judgment of a label characterizing the book or author as subversive or dangerous.
6. It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individual or groups seeking to impose their own standards or tastes upon the community at large.
7. It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, book-men can demonstrate that the answer to a bad book is a good one; the answer to a bad idea is a good one.

NOTE: "Books as used in this statement include all kinds of material acquired for library use.

APPENDIX D - SAMPLE BYLAWS

While policies guide the day-to-day operation of the library, bylaws serve to govern the operation of the Board of Trustees. As with policies, all trustees and the librarian should have a copy of the library's bylaws which should be reviewed regularly. They usually cover the following points:

- 1) Purpose of the Board
- 2) Membership on the Board—How appointed and how removed
- 3) Terms of office of trustees
- 4) Officers
 - i. How elected
 - ii. Terms of office
 - iii. Duties
- 5) Meetings
 - i. Frequency
 - ii. Dates
 - iii. Times
 - iv. Location
 - v. Provision for special meetings
- 6) Quorum
- 7) Committees
 - i. Appointments
 - ii. Functions
- 8) Order of business to be followed at meetings
- 9) General duties and responsibilities of:
 - i. Trustees
 - ii. Director
- 10) Budgetary and financial procedures
- 11) Membership in State and National organizations

12) Use of parliamentary procedures

13) Method of amending bylaws

APPENDIX E - WEST VIRGINIA CODE

CHAPTER 10. PUBLIC LIBRARIES

ARTICLE 1. PUBLIC LIBRARIES

10-1-1. “Public library” and “governing authority” defined.

The term “public library” as used in this article shall be construed to mean a library maintained wholly or in part by any governing authority from funds derived by taxation and the services of which are free to the public, except for those charges for which provision may be made elsewhere in this article. The term shall not, however, include special libraries, such as law, medical or other professional libraries, or school libraries which are maintained primarily for school purposes. The term “governing authority” shall be construed to mean county court, county board of education or the governing body of any municipality.

10-1-2. Power of governing authority to establish and maintain libraries; financing.

A governing authority either by itself or in cooperation with one or more such governing authorities, shall have the power to establish, equip and maintain a public library, or take over, maintain or support any public library already established. Any library established, maintained or supported by a governing authority may be financed either (1) by the appropriation from the general funds of the governing authority of a sum sufficient for the purpose, or (2) by the imposition of an excess levy for library purposes, in accordance with the provisions of Section 16, Article 8, Chapter 11 (11816) of this Code.

10-1-3. Regional library defined; apportionment of regional library expenses.

A regional library is a public library established and/or maintained by two or more counties, by action of their governing authorities, under the terms of a contract to which they all agree. The expenses of the regional library shall be apportioned between or among the counties concerned on such a basis as shall be agreed upon in the contract.

10-1-3a. Authority of regional library board to disburse funds.

The governing authorities which maintain a regional library may contribute the apportioned sum to the regional library board, such contributions to be deposited as the regional library board shall direct and to be disbursed by the officer designated by that board. By such contribution, the governing authority designates the regional library board as its disbursing agent.

10-1-4. Contract with existing public library.

The governing authority may, in lieu of supporting and maintaining its own public library, enter into a contract with an existing public library and make annual payments of money to such library, whose

library materials and services shall be available without charge to all persons living in the area represented by such governing authority. Any school board may contract for school library service from an existing public library which shall agree to furnish books to a school or schools under the terms of the contract. All money paid to a library under such a contract shall be expended solely for the maintenance and support of the library.

10-1-5. Board of library directors--Qualifications; term of office; vacancies; removal; no compensation.

a) Whenever a public library is established under this article, the governing authority or authorities shall appoint a board of directors with five members chosen with reference to their fitness for such office, from:

- 1) The citizens of the library's service areas, as determined by the Library Commission; or
- 2) The county in which the library is located.

b) The board of directors for a regional library shall consist of not less than five nor more than ten members, with a minimum of one member from each county in the region. The total number of directors and the apportionment of directors by county shall be determined by joint action of the governing authorities concerned.

c) The term of office for a director is five years from the first day of July following the appointment. Directors may serve until their successors are appointed and qualified.

d) For a new board of directors under this article, the initial appointment of the directors shall be staggered. Thereafter all appointments shall be for terms of five years.

e) Vacancies in the board shall be immediately reported by the board to the governing authority and filled by appointment. Vacancies for an unexpired term shall be immediately reported by the board to the governing authority and filled by appointment for the remainder of the term only.

f) A director may be removed for just cause in the manner provided by the bylaws of the library board.

g) No compensation shall be paid to any director.

10-1-6. Board of library directors--powers and duties.

The board of directors of each public library established or maintained under this article shall:

a) Immediately after appointment, meet and organize by electing one member as president and one as secretary, and such other officers as may be necessary. All officers shall hold office for one year and shall be eligible for re-election.

b) Adopt such by-laws, rules and regulations as are necessary for its own guidance and for administration, supervision and protection of the library and all property belonging thereto as may not be inconsistent with the provisions of this article.

c) Supervise the expenditure of all money credited to the library fund. All money appropriated or collected for public library purposes shall be deposited in the treasury of the governing authority to the credit of the library fund, to be paid out on the certified requisition of the library board, in the manner provided by law for the disbursement of the library board, in the manner provided by law for the disbursement of other funds of such governing authority, or shall be deposited as the library's board of directors shall direct and be disbursed by the officer designated by that board, such officer before entering upon his duties to give bond payable to and in an amount fixed by the board of directors of the library, conditioned for the faithful discharge of his official fiscal duties. The cost of such bond shall be paid from the library fund. The books, records and accounts of the library board shall be subject to audit and examination by the office of the State Tax Commissioner of West Virginia.

d) Lease or purchase and occupy suitable quarters, or erect upon ground secured through gift or purchase, an appropriate building for the use of such library; and have supervision, care, and custody of the grounds, rooms or building constructed, leased, or set apart for library purposes.

e) Employ a head librarian, and upon his recommendation employ such other assistants as may be necessary for the efficient operation of the library.

10-1-7. Free use of libraries.

Each library established or maintained by any governing authority shall be free for the use of all persons living within the area represented by such governing authority, except for those charges for which provision may be made elsewhere in this article. The use of the library is subject to reasonable rules and regulations adopted by the library board. The board may extend the privilege and use of the library to non-residents upon such terms and conditions as it may prescribe. The board may exclude from the use of the library under its charge any person who willfully and persistently violates any rule or regulation prescribed for the use of the library or its facilities.

10-1-8. Annual report.

The board of directors shall make an annual report for the fiscal year ending June 30th to the governing authority or authority appointing it, stating the conditions of the library property, the various sums of money received from the library fund, and all other sources, and how such money was expended, the number of books and periodicals on hand, the number added and withdrawn during the year, the number of books lent, the number of registered users of such library with such other statistics, information and suggestions as may be deemed of general interest. A copy of this report shall be sent to the West Virginia library commission.

10-1-9. Library board to be a corporation; vesting of title to bequests or donations.

The board of directors of each public library shall be a corporation; and as such it may contract and be contracted with, sue and be sued, plead and be impleaded, and shall have and use a common seal. The title to all bequests or donations of cash or other personal property or real estate for the benefit of such library shall be vested in the board of directors to be held in trust and controlled by such board

according to the terms and for the purposes set forth in the deed, gift, devise or bequest: Provided, however, that the person making the bequest or donation of cash or other personal property or real estate for the benefit of such library shall have the right and privilege to vest the title thereto in a trustee, or trustees, of his own selection, and to provide for the selection of successor trustees, and to designate the manner in which said fund or property shall be invested and used.

10-1-9a. Fees, service and rental charges; fines; sale surplus or obsolete materials or equipment; deposit and disbursement of receipts.

The Board of Directors of a library established or maintained under this article may fix, establish, and collect such reasonable fees, service and rental charges as may be appropriate; may assess fines, penalties, damages or replacement costs for the loss of, injury to, or failure to return any library property or material; and may sell surplus, duplicated, obsolete, or other unwanted material or equipment belonging to the library. All monies received from these or other sources in the course of the administration and operation of the library shall be deposited in the library fund and shall be disbursed by the board of directors in the manner described elsewhere in this article.

10-1-10. Injury to library property; penalty.

Any person who shall willfully deface or injure any building or furniture, or deface, injure or destroy any picture, plate, map, engraving, newspaper, magazine, book, subject of art, or any other article belonging to a public library shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than ten dollars, nor more than fifty dollars, or by imprisonment not exceeding six months.

10-1-11. Willful retention of library property.

Any person who willfully retains a book, newspaper, plate, picture, photograph, engraving, painting, drawing, map, magazine, document, letter, public record, microfilm, sound recording, audio visual materials in any format, magnetic or other tapes, artifacts or other documentary (written or printed) materials, or all material of any kind whatsoever belonging to any public library for thirty days after the mailing date of a written notice demanding the return of said material and giving notice of said violation, forwarded to that person's last known address, is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than two hundred dollars' Provided, that a date or dates designating a grace period for the return of library materials to public libraries shall be established, said dates to be established by the state library commission pursuant to rules and regulations promulgated thereto.

A conviction or payment of any fine shall not be construed to constitute payment for library material, nor shall person convicted under this section be thereby relieved of any obligation to return to the library such material. Further, a conviction or payment of any fine shall not be construed as a waiver of any nominal daily fine which may be imposed by library rules, regulation or policies.

The parent or guardian of a minor who willfully commits any act prohibited by this section shall be liable for all damages so caused by the minor up to the amount of two thousand five hundred dollars, after the parent or guardian is served with proper written notice as aforementioned.

10-1-11a. Effect of article on existing laws.

Nothing in this article shall be construed to abolish or abridge any power or duty conferred upon any public library already established by virtue of any city or town charter or other special act, or to affect any existing local laws allowing or providing municipal aid to libraries. Any library now operating under any city or town charter or other special act has however, the privilege of reorganizing under the provisions of this article.

All powers granted herein shall be considered to be conferred upon public libraries existing at the time of the passage of this act (February 21, 1961).

Any provision concerning the disbursement of funds including the designation of the depository of the library funds or of the library board's disbursing officer contained in this article may be adopted by a library board organized under the provisions of this article, notwithstanding any other provisions of law.

10-1-12. State library commission.

There shall be a state library commission, known as the "West Virginia library commission", which shall consist of five members who shall be appointed by the governor, by and with the advice and consent of the Senate, each for a term of four years. Thereafter, on the first day of July, one thousand nine hundred ninety-five, four additional members shall be appointed: Provided, that for the four new members added to the commission in the year one thousand nine hundred ninety-five, one shall serve an initial term of four years and three shall serve an initial term of two years. No more than three members may reside in the same congressional district. At least four members of the commission shall be women and at least four members shall be men. No member of the commission shall receive compensation for services rendered, nor be engaged or interested in the publishing business.

The members of the commission in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and have qualified. On or before the expiration of the terms for which said members are appointed, the governor shall appoint their successors. (1929, c. 5, 1; 1995, c. 160.)

10-1-13. State library commission--Officers.

The officers of the commission shall be a chairman, elected from the members of the commission for a term of one year, and a secretary, who shall be a person trained in modern library methods, not a member of the commission. The secretary shall be appointed by the commission and shall serve at the will of the commission. Notwithstanding any other provision of the code to the contrary, the salary of the secretary shall be sixty-two thousand five hundred dollars per year. The commission may establish headquarters or maintain its office at such point in the State as it may determine.

The secretary shall keep a record of the proceedings of the commission, have charge of its work in organizing new libraries and improving those already established, supervise the work of the traveling libraries, and in general perform such duties as may from time to time be assigned to him or her by the commission.

10-1-14. Same.--Power and duties.

The commission shall give assistance, advice and counsel to all school, state-institutional, free and public libraries, and to all communities in the State which may propose to establish libraries, as to the best means of establishing and administering them, selecting and cataloging books, and other details of library management, and may send any of its members to aid in organizing such libraries or assist in the improvement of those already established.

It may also receive gifts of money, books, or other property which may be used or held for the purpose or purposes given; and may purchase and operate traveling libraries under such conditions and rules as the commission deems necessary to protect the interests of the state and increases the efficiency of the service it is expected to render the public.

It may purchase suitable books for traveling libraries and distribute them as needed to those persons and places in the state without adequate public library service. It may collect books and other suitable library matter and distribute the same among state institutions desiring the same.

The commission may issue printed material, such as lists and circulars of information, and in the publication thereof may cooperate with other state library commissions and libraries, in order to secure the more economical administration of the work for which it was formed. It may conduct courses of library instruction and hold librarians' institutes in various parts of the state.

The commission shall perform such other service in behalf of public libraries as it may consider for the best interests of the state. (1929, c. 5, § 3.)

10-1-15. State library commission--Disposition of monetary gifts.

If any sums of money are received by the commission as gifts, they shall be paid into the state treasury and used exclusively for carrying out the provisions of this article, and paying expenses of the commissioners, The commission shall expend no sums unless they are available by gift, appropriation or otherwise.

10-1-16. Regional libraries and library areas--Establishment and location.

The West Virginia library commission is hereby authorized to develop a plan for the establishment and location of regional libraries, and library areas throughout the state, based on a detailed survey to be made by the commission of the needs of the various localities of the state. A region shall include two or more counties.

10-1-17. Regional libraries and library areas--Referral of plan to county courts; action on; alteration of plan.

On completion of the survey of any proposed region, the executive secretary of the commission shall refer the proposal to the county courts of all the counties included in such proposed region. The county courts shall act upon such proposal by resolution, and the votes of the majority of each of the county

courts of the counties included in the proposed region shall be necessary for the adoption of such proposal. In case of the rejection of such proposal by the county courts of any of the counties included such proposed region, the library commission is hereby authorized to alter its plan in accordance with such action in order to provide for a region in such section of the state. The vote of a majority of each county court in the counties in such altered region shall be necessary for the adoption of such proposal.

10-1-18. Regional libraries and library areas--Powers of West Virginia library commission.

The West Virginia library commission shall have the following powers for the establishment and maintenance of regional areas and regional libraries:

- a) Establish, maintain, and operate a public library for the region;
- b) To appoint a librarian and the necessary assistants, and to fix their compensation, such appointments to be based upon merit and efficiency as determined by the commission. The librarian shall hold a certificate from an approved school of library science and shall have had not less than three years of practical experience in library work. Said library commission shall also have the power to remove said librarian and other assistants;
- c) To purchase books, periodicals, equipment and supplies;
- d) To purchase sites and erect building, and/or to lease suitable quarters, and to have supervision and control of said property;
- e) To borrow books from and lend books to other libraries;
- f) To enter into contracts to receive service from or give service to libraries within or without the region and to give service to municipalities without the region which have no libraries, or to cooperate with and aid generally without such contracts, public school, institutional and other libraries;
- g) To make such by-laws, rules and regulations not inconsistent with this article as may be expedient for the government of such regional library areas and the regional libraries therein, and for the purpose of carrying out the provisions of this article;
- h) To accept for the state of West Virginia any appropriations of money that may hereafter be made out of the federal treasury by an act or acts of Congress and to disburse such funds for the purpose of carrying out the provisions of this article, in accordance with sections eleven and twelve (§§ 18-10-11, 18-10-12), article ten, chapter eighteen of the code of one thousand nine hundred thirty-one, as amended.

10-1-18a. Establishment of state publications clearinghouse; definitions; powers of West Virginia library commission; designations by state agencies.

- (a) There is hereby established the state depository library clearinghouse which shall be under the direction of the state library commission.

(b) As used in this section, the following terms have the following meanings:

(1) "Public document" means any document, report, directive, bibliography, rule, newsletter, pamphlet, brochure, periodical, request for proposal, or other publication, whether in print or an unprinted format, that is paid for, in whole or in part, by funds appropriated by the Legislature and may be subject to distribution to the public;

(2) "Depository library" means a library designated to collect, catalog, maintain and make available all or particular selected state publications to the general public; and

(3) "State agency" means any state office, whether legislative, executive or judicial, including, but not limited to, any constitutional officer, department, division, bureau, board, commission or other agency which expends state appropriated funds.

(c) The state library commission shall establish a state depository library clearinghouse to receive and distribute all state public documents to the depository libraries around the state.

(d) The commission shall designate a state library staff member as director of the state publications clearing house for librarians. The director shall hold a graduate degree in library science from an accredited institution of higher learning. The clearinghouse shall establish requirements for eligibility to become and remain a depository library.

(e) In designating a library as a depository library the clearinghouse shall consider the geography of the state and the existing federal depository libraries. West Virginia University library, Marshall University library and the state department of archives shall be designated as complete depository libraries that shall receive two copies of all public documents, The clearinghouse shall also, pursuant to the requirements it establishes hereunder, designate other libraries around the state as depository libraries, upon request from a library.

(f) Each state agency shall designate one person as its documents officer while notifying the clearinghouse of his or her identity. The documents officer shall, prior to the public release of any state public document, deposit with the clearinghouse a minimum of fifteen copies as required to meet the needs of the depository library system. If fewer than forty copies of a public document are produced, no more than two such copies are required to be deposited with the clearinghouse. (1995, c. 218)

10-1-19. Regional libraries and library areas--Transfer of certain libraries to library commission.

After the establishment of a regional library area or regional library, as provided for in this article, the county court, legislative, body of any city or town, the board of education of any county, or any other governing body of any political subdivision of this state, already maintaining a public, school or county library, may notify the West Virginia library commission and such county, city or town, or other subdivision library may be transferred to, leased to, or be used by said Library Commission for regional library purposes under such terms as may be mutually agreed upon between the said library commission and the respective county courts, legislative bodies of cities and towns, boards of education, or governing bodies of other political subdivisions.

10-1-20. Aid to libraries by library commission.

The West Virginia library commission is hereby authorized and empowered to render such aid and assistance, financial, advisory and/or otherwise, to public, school, county, or regional libraries, whether established or maintained by said library commission or not, under such conditions and rules and regulations as the said commission deems necessary to further the interests of the state and best increase the efficiency of the service it is expected to render the public.

Having determined that the development and support of such libraries will further the education of the people of the state as a whole and will thereby aid in the discharge of the responsibility of the state to encourage and foster education, the West Virginia library commission is authorized and empowered to pay over and contribute to any board of library directors created and maintained pursuant to the provisions of this article or any special act of legislature such sum or sums of money as may be available from funds included in appropriations made for the West Virginia library commission for such purpose. The amount of any such payment or contribution by the commission to any such local library board of directors shall be determined in accordance with rules and regulations promulgated by the commission. The library commission shall have the authority to promulgate rules and regulations governing the manner in which such amount or amounts of money shall be accounted for and expended.

10-1-21. Collection and preservation of library data; surveys; employment of personnel; use of data.

The West Virginia library commission is hereby authorized and empowered to collect and preserve statistics and other data, concerning libraries of any sort located within this state; to make surveys relating to the needs or conditions of such libraries or the library conditions of any city, town, county, regional library area, or other subdivision of this state; and to publish the results and findings thereof in accordance with the provisions of Section 14 (10114) of this article. The commission may employ all necessary personnel for any of these purposes, such appointments to be based on merit and efficiency as determined by the commission. Such data, surveys and findings of the library commission shall be available to all school, public, institutional, regional and/or other libraries within this state, whether proposed or established.

10-1-22. Confidential nature of certain library records.

(a). Circulation and similar records of any public library in this state which identify the user of library material are not public records but shall be confidential and may not be disclosed except:

(1). To members of the library staff in the ordinary course of business, including paid employees and unpaid volunteers upon completing a written confidentiality agreement which shall prevent disclosure of circulation records, personal information, and similar records of any public library except to the extent allowed under this subsection and obtaining written permission from the library director of the library system wherein he or she will be working;

(2). Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or

(3). Upon appropriate court order or subpoena.

(b). Any disclosure authorized by subsection (a) of this section or any unauthorized disclosure of materials made confidential by that subsection (a) does not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subsection (a) of this section is not liable therefor.

APPENDIX F - TITLE 173, LEGISLATIVE RULE

LIBRARY COMMISSION

SERIES 1

ADMINISTRATIVE RULES

1.1. Scope. -- This legislative rule establishes requirements and procedures for allocating and administering state appropriated funds that are distributed by the West Virginia Library Commission and are used to develop and enhance library services in the state. This rule applies to public libraries established according to West Virginia Code §10-1-1, unless otherwise specifically provided for in a special library law.

1.2. Authority. -- West Virginia Code §10-20.

1.3. Filing Date. – 04/02/07

1.4. Effective Date. – 07/01/07

1.5. Repeal and Replacement. -- This rule repeals and replaces “The Administrative Regulations of the West Virginia Library Commission” effective July 1, 1997.

§173-1-2. Definitions.

2.1. “Administrative Fees” means outlay for administrative and support services including, but not limited to, professional librarian advice, personnel assistance, fiscal management, planning, program management, and public relations.

2.2. “Audit” means an annual examination of the financial records of the public library completed in full accordance with generally accepted accounting procedures for governmental agencies and performed by an accountant appointed by the State Auditor.

2.3. “Board of Library Directors” means the administrative authority of a public library. The board of library directors consists of five members appointed to staggered terms unless other provision is made by a special library law. Each member is called a library trustee.

2.4. “Budget” means an itemized summary of estimated income and expenditures for a specific period.

2.5. “Collection Development” means a planned process of selecting, acquiring, and managing library materials to meet the needs of a library’s community.

- 2.6. “Community Library” means a library that offers services to the public but is not established in accordance with the provisions of the West Virginia Code §10-1-1 et seq.
- 2.7. “Consortium” means a formal cooperative established and developed to improve library services and resources. It may be restricted by geographical area, established for specified purposes, initiated by the West Virginia Library Commission or initiated by a library. It requires formal agreements concerning purpose, membership, administration and procedures and may include non-library entities. Libraries may enter into any number of consortia agreements that meet the definition of this rule. The West Virginia Library Commission must approve consortia agreements that expend funds administered by the Library Commission.
- 2.8. “Continuing Education” means activities, including attendance at workshops and conferences, for the purpose of maintaining and increasing job-related competence.
- 2.9. “Development Plan” means a document that indicates how the public library will provide quality services to the community for the next three to five years.
- 2.10. “Fiscal Year (FY)” means a 12-month accounting period based on the budget of the State of West Virginia, currently July 1st through June 30th.
- 2.11. “Governing Authority” means County Commission, county board of education, or municipal governing body.
- 2.12. “Grants to Public Libraries” means awards determined annually by the West Virginia Library Commission from funds appropriated by the Legislature for distribution to public libraries.
- Grants are to enhance library services, not to reduce local funding. Grants to Public Libraries include:
- Grants-in-Aid -- Funds distributed on a per capita basis to all qualifying public libraries.
- Other grants -- Funds awarded from any balance in the Grants to Public Libraries appropriation or from any other funds designated by the Library Commission.
- 2.13. “Interlibrary Loan” means a transaction in which library material, or copies of material, is loaned by one library to another for the use of a patron.
- 2.14. “Legal Service Population” means the number of people in a geographic area assigned to a public library by the Library Commission. This term is a standard data element of the Federal-State Cooperative System (FSCS) for Public Library Data, a project of the U.S. Department of Education’s National Center for Education Statistics.
- 2.15. “Library Director” means the individual hired by the board of library directors to administer the total library program.
- 2.16. “Library Support Staff” means all paid staff who assist with the delivery of library services and programs; does not include janitorial staff.

2.17. “Local Funds” means revenue received from local sources for operating expenditures of the public library. Local tax based revenue includes all local government funds designated by the county commission, board of education, or municipality for the public library. Non-tax based local revenue includes all other funds such as monetary donations, interest, library fines, fees for library services, or grants.

2.18. “Maintenance of Effort” means a specified level of financial effort that is required by a library over a designated time period in order to receive grants.

2.19. “Minutes” means the official record of a meeting of the board of library directors. Minutes show date, time and place of the meeting, names of those attending, actions on all motions and expenditures, corrections to previous minutes, and other information determined to be necessary. Minutes are signed by the secretary.

2.20. “Operating Expenditures” means costs of providing on-going library services. Operating expenditures do not include capital outlay or one-time projects.

2.21. “Patron” means any person who uses the resources and services of a library, not necessarily a registered borrower.

2.22. “Policy” means a statement that articulates principles of operation for the library. The board of library directors must formally adopt all policy statements.

2.23. “Professional Librarian” means an individual who has received a Master’s degree from a program accredited by the American Library Association.

2.24. “Public Library” means a library established in accordance with West Virginia Code §10-1-1 et seq. and in compliance with this rule, having paid staff, an organized collection, an established schedule during which services of the staff are available to the public, and the facilities necessary to support such a collection, staff, and schedule. A public library may consist of a single facility or multiple facilities.

2.25. “Quorum” means the minimum number of library trustees who must be present at a meeting for business to be conducted legally. Unless otherwise defined by a special law, a quorum is three.

2.26. “Service Center Library” means a library that provides professional and management services to libraries assigned to it by the Library Commission.

2.27. “Services to Libraries Grants” means funds distributed to Service Center libraries to assist in providing those services specified in this rule.

2.28. “Special Library Law” means a law, approved by the West Virginia Legislature, which specifies local funding appropriations to the public library. It may also establish the public library and provide for appointment of library trustees.

§ 173-1-3 Requirements for Receiving Grants

- 3.1. A public library must fulfill all of the requirements set forth in this section to be eligible to receive a grant from the library commission.
- 3.2. The public library is organized and operates in accordance with West Virginia Code § 10-1-1 et seq. or a special library law that meets the minimum requirements in the code.
- 3.3. The public library receives local funding to support its operations.
- 3.4. Local funds received in the previous fiscal year equal or exceed the maximum Grant-in-Aid established for the library. Local non-tax based funds used as matching funds cannot exceed the amount of local tax based funds.
- 3.4.a. In the first three fiscal years following passage of this rule during the 2007 regular session of the Legislature, Grants-In- Aid will be awarded at the maximum amount to every library meeting all other requirements.
- 3.4.b. Section 3.4 will be implemented in the fourth fiscal year following passage of this rule during the 2007 regular session of the Legislature.
- 3.5. Local operating expenditures for the previous fiscal year are equal to, or greater than, the average of the total local operating expenditures for the three fiscal years preceding that previous fiscal year. All funds included in the maintenance of effort calculation shall be expended in the fiscal year for which the determination is made and shall not include capital expenditures, special one-time project costs, or similar windfalls.
- 3.6. The board of library directors is the disbursing agent for appropriations received from governing authorities as described in West Virginia Code §10-1-2.
- 3.7. The accounting and fiscal procedures of the public library shall be conducted under the management, direction and control of the board of library directors which may delegate to the library director or to any other employee or duly designated agent such duties and functions as it deems appropriate.
- 3.8. The accounting and fiscal procedures of the public library, unless otherwise provided for in a special library law, include the following:
- 3.8.a. The fiscal year of the State of West Virginia is used for reporting to the Library Commission.
- 3.8.b. The board of library directors annually elects a treasurer to perform or oversee all financial operations.
- 3.8.c. Provision is made for at least two signatures, one of which must be a library trustee, on all checks used in payment of library financial obligations. All those with signature authority must be bonded at the expense of the board of library directors.
- 3.8.d. The board of library directors approves all adjustments to the budget.

- 3.8.e. All accounts of the library are settled within thirty (30) days after the close of the fiscal year.
- 3.8.f. Library funds are disbursed based on itemized invoices verified by the party duly authorized by the board of library directors.
- 3.8.g. The payroll is prepared in accordance with budgeted amounts approved by the board of library directors.
- 3.8.h. All accounting records are readily available in a form which can be audited or reviewed by the Library Commission or authorized representatives of the State of West Virginia or United States Government.
- The annual audit or review is filed with the Library Commission within 30 days of the receipt of the audit.
- 3.8.i. A financial report of the preceding year is filed within 45 days from the end of that year on forms provided by the Library Commission.
- 3.9. The public library submits, by the beginning of the fiscal year, an application for Grant-in-Aid on a form provided by the Library Commission.
- 3.10. The public library submits, by the beginning of the fiscal year, a spending plan for the use of the state Grant-in-Aid and an annual budget on forms provided by the Library Commission.
- 3.11. The board of library directors employs a full-time professional librarian to direct the operations of the library and to participate in meetings, workshops and conferences for which the Library Commission requires attendance.
- 3.12. The board of library directors meets at least four times annually with a quorum present. All meetings of boards of library directors are subject to the provisions of the Open Governmental Proceedings Act, W. Va. Code § 6-9A.
- 3.12.a. Approved minutes are forwarded within thirty (30) days to the Library Commission, or if applicable, to the Service Center Library.
- 3.12.b. A report showing the status of all accounts, funds and expenditures is presented for review and approval at all regular meetings of the board of library directors or board finance committee.
- 3.12.c. Policies covering library operations, collection development, personnel, and technology are formally adopted and forwarded to the Library Commission.
- 3.12.d. The public library regularly submits to the Library Commission a development plan for a period of at least three years and no more than five years.
- 3.12.e. No member of a board of library directors is involved in any claim or contract with the public library. This does not mean that a library trustee may not be a stockholder, officer, or director of a bank designated as a depository for the public library.

3.12.f. Reimbursement of travel expenses for library trustees is in accordance with policies adopted by the board of library directors.

3.13. The library director completes no fewer than eight (8) hours of continuing education per year. All other full time library support staff complete no fewer than three (3) hours of continuing education per year.

3.13.a. Continuing education hours must be approved in advance by the Library Commission.

3.13.b. Staff of a library assigned to a Service Center Library is required to attend the annual staff development workshop sponsored by the Service Center.

3.14. The public library is open a minimum number of hours weekly based on the legal service population ranges below.

3.14.a. Fewer than 6000 – 25 hours

3.14.b. 6000-15,000 – 30 hours

3.14.c. More than 15,000 – 40 hours

3.15. The public library is open to the public at least six hours per week that are either before 9 a.m., after 5 p.m., or on Saturdays or Sundays.

3.16. The public library provides free service to residents except as provided for in the West Virginia Code § 10-1-9a.

3.17. The public library provides public access to informational services and programs provided by the Library Commission at no cost to libraries.

3.18. The public library agrees to share resources with other libraries in the state, according to local interlibrary loan policy and guidelines endorsed by the Library Commission.

3.19. The public library designates National Library Week and Children's Book Week or any other two weeks annually as grace periods during which no fines or penalties are assessed for overdue materials.

§173-1-4 Non-Compliance with Requirements

4.1. The Library Commission shall determine by review of required reports and evaluation visits whether a public library meets eligibility requirements.

4.2. A library not directed by a professional librarian will be assigned by the Library Commission to a Service Center Library.

4.3. If the maintenance of effort requirement (3.5) is not met, the Grant-in-Aid shall be reduced by a percentage equal to the percentage of the unmet maintenance of effort.

4.4. Failure to meet any requirements other than those described in sections 3.4 and 3.5 of this rule will result in the public library forfeiting a portion of its Grant-in-Aid. Such portion will be determined by the Library Commission.

§173-1-5 Waiver of Requirements

5.1. The eligibility requirements contained in section 3 of this rule may be waived if the Commission determines that due to exceptional or uncontrollable circumstances, one or more of the requirements for receiving grants contained in section 3 would impose undue hardship on a public library. For the purpose of this subsection, exceptional or uncontrollable circumstances may include, but are not limited to, a natural or man-made disaster or a governing authority's lack of financial resources to provide adequate local funding to support a public library's operations.

5.2. The board of library directors requests a waiver by notifying the Library Commission in writing of any extraordinary circumstances and the fiscal year affected. A waiver is granted for one year.

5.3. The board of library directors and staff must work with the Library Commission to develop and implement a recovery plan.

5.4. The Library Commission determines the amount of any Grant-in-Aid distributed to a library on a waiver.

5.5 The provisions of this rule shall be liberally construed to accomplish its objectives and purposes.

§173-1-6 Requirements For Use of Grants-in-Aid

6.1. The Library Commission determines annually, on a per capita basis, the maximum Grant-in-Aid for each library. Each library must submit, by the beginning of the fiscal year, a Grant-in-Aid expenditure plan to the Library Commission for approval.

6.2. Grants-in-Aid shall be used for the following purposes:

6.2.a. Salaries, wages, and benefits; all staff must be paid no less than state or federal minimum wage, whichever is higher;

6.2.b. Library materials;

6.2.c. Equipment;

6.2.d. Travel expenses for library director, staff and library trustees to attend meetings, workshops and conferences and any other library-related activities approved by the board of library directors;

6.2.e. Bookmobiles;

6.2.f. Audits required by state or federal law, rule or regulation;

6.2.g. All other current operating expenses approved by the board of library directors;

6.2.h. Fellowships for graduate and undergraduate degrees when there exists between the sponsoring public library and the recipient of the fellowship a written agreement that includes, but is not limited to, the following:

6.2.h.1. The fellowship recipient must be an employee of the sponsoring public library;

6.2.h.2. A candidate for a graduate fellowship must attend a school accredited by the American Library Association;

6.2.h.3. The amount the sponsoring public library will pay for classes;

6.2.h.4. The expected completion date;

6.2.h.5. The trainee must agree to return to the sponsoring public library for at least two (2) years following receipt of the degree;

6.2.h.6. The trainee may be permitted by the sponsoring public library to substitute employment in any public library in West Virginia for two (2) years if a position is not available with the sponsoring public library. If no employment is available at a salary commensurate with the trainee's education, repayment of the grant may be waived at the discretion of the sponsoring library with approval from the Library Commission;

6.2.h.7. If repayment of the grant is not waived by either the sponsoring public library or by the Library Commission, the grant must be repaid to the sponsoring public library.

§173-1-7. Service Center Libraries

7.1. A Service Center Library ensures that professional librarian expertise is available to each public library. The Library Commission may assign a library to a Service Center Library if required reports or evaluation visits indicate need.

7.2. Responsibilities of a Service Center Library are:

7.2.a. To reach a formal agreement with each consortium member regarding assistance provided with the Services to Libraries Grant or administrative fee;

7.2.b. To file, by the beginning of each fiscal year on forms provided by the Library Commission, a plan for assisting each assigned library, based on the formal agreement between the libraries;

7.2.c. To employ a full-time professional librarian in addition to the director;

7.2.d. To visit each assigned library four times a year, including one board meeting, and to present at least one staff development workshop annually;

7.2.e. To evaluate the collections, fiscal management, and operations of each assigned library and report the results annually to the library with a copy to the Library Commission;

7.2.f. To account for funds or administrative fees used to assist assigned libraries. Administrative fees must be approved by the Library Commission and may not exceed twenty percent (20%) of the Grant-in-Aid for each assigned library.

7.3. The Library Commission will evaluate periodically the performance of each Service Center library. Failure of a Service Center Library to meet the responsibilities of section 7.2 of this rule may result in the Service Center forfeiting a portion of funds received from the Library Commission or administrative fees, or, in the reassignment of libraries.

§173-1-8. Other Grants

8.1. The Library Commission may distribute other grants that further library service in the state. Any public library is eligible to apply for these grants.

Grant priorities and qualifications are determined annually by the Library Commission.

8.2. Construction grant applications must meet minimum standards identified by the Library Commission for:

8.2.a. New construction

8.2.b. Expansion

8.2.c. Renovation, including

8.2.c.1. Handicapped access

8.2.c.2. Safe working conditions

8.2.c.3. Public safety

8.3. An application for a construction grant will be on forms provided by the Library Commission and will include, but not be limited to, the following:

8.3.a. Project budget, including a history of local funding for the most recent five (5) years;

8.3.b. Certification by board of library directors of all local funds available for this project. Certification includes the source of the funds, the anticipated date of receipt of funds and the method to be used to provide any additional funding needed;

8.3.c. Timeline for the project;

8.3.d. Current status of the building program, architectural development, site acquisition, and fund raising;

8.3.e. Long range plan for use of the proposed, expanded or renovated facility;

8.3.f. Statement of ownership of the new building;

- 8.3.g. A feasibility study if proposed construction is the expansion, remodeling or alteration of an existing building. The study is to be done by an AIA registered architect;
- 8.3.h. A survey and description of the Library Commission approved site;
- 8.3.i. Project summary including descriptions of the current facility and the new facility comparing total square footage and space needs for public service areas, staff work space, and collection, meeting room, parking, and non-assignable spaces;
- 8.3.j. Description of how the project will benefit the service area and provide better library service, as well as information about current services.
- 8.4. Construction contracts must be entered into within three hundred sixty-five (365) days following the Library Commission approval of the grant request.
- 8.5. Assurance must be given to the Library Commission that, for all construction projects assisted through a grant, all laborers and mechanics employed by contractors or subcontractors will be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the U.S. Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and that covered workers will receive overtime compensation in accordance with, and subject to, the provisions of the Contract Work Hours and Safety Standards Act. Further assurance must be provided that contractors or subcontractors comply with any other applicable state or federal law, including but not limited to workers compensation and unemployment compensation.
- 8.6. Additional reports must be submitted as requested by the Library Commission during the project.
- 8.7. Financial accounting:
- 8.7.a. Local funds for construction will be deposited in an account separate from all other funds. A certification by the bank as to the amount of these funds and certification that these funds are free from encumbrances must be furnished to the Library Commission;
- 8.7.b. Payment of federal and state funds on a construction project will be made to the board of library directors after approval of invoices by the Library Commission;
- 8.7.c. Request for a federal or state share will be made on forms provided by the Library Commission;
- 8.7.d. A retainage of ten percent (10%) will be withheld from the federal and state share of each construction project. The creditor's invoice should reflect the total amount due in order to prevent duplication of the retainage;
- 8.7.e. The public library will require the general contractor or equivalent to keep on file a copy of weekly payrolls with the required certification in regard to anti-kickback provisions of the Copeland Act. These payrolls will be checked by the general contractor or equivalent against the minimum wage determination for the project and will be reviewed periodically by the Library Commission. Periodic on-the-job interviews will be made by the Library Commission to assure compliance with federal

regulations. A copy of this interview will be on file at the Library Commission. A copy of the labor interview will be forwarded to the general contractor or equivalent for filing with the payroll for the week. The general contractor or equivalent will file copies of weekly payrolls with the contracting library;

8.7.f. The portion of the architect's fee, which is paid for supervision, must be based on that portion of the "Contract Completed" at the date of the request;

8.7.g. Any change from the original construction contract must be made by a formal "Change Order" accompanied by a letter of authorization by the president of the board of library directors. If the change or addition requires additional funds over and above the approved budget, the board of library directors must certify that the additional funds are available;

8.7.h. The ten percent (10%) retainage from the federal and state share will be paid only after local architect's certification of completion of the construction contract and after an audit by an auditor approved by the Library Commission is filed with the Library Commission. This audit will be made at the expense of the board of library directors and may be a part of the total project cost;

8.7.i. All records pertaining to a construction project must be kept by the board of library directors for at least three (3) years after completion of the project, or as directed by any applicable federal legislation. These records must be made available to the Library Commission or authorized representative of the State of West Virginia or United States Government on request.

§173-1- 9. Establishing New Libraries

9.1. Representatives of a community interested in establishing a public library shall contact the Library Commission and provide the following information:

9.1.a. What area the library will serve;

9.1.b. How the operations of the library will be funded;

9.1.c. The expected effect of the new library on existing libraries in the area;

9.1.d. Comparison of services of the new library to services of existing libraries in the area;

9.2. To qualify for state funds, a newly established public library must:

9.2.a. Be established according to West Virginia Code § 10-1-1;

9.2.b. Comply with this Library Commission rule;

9.2.c. Develop a plan for library service using advice and continuing education from the Library Commission.

9.3. After meeting requirements for state funds, the newly established public library will be assigned to a Service Center Library.

§173-1- 10. Appeal Process

10.1. Any appeal of a decision related to this rule shall be submitted in writing to the Chairman of the Library Commission and the Secretary of the Library Commission.

10.2. The appeal shall include the following:

10.2.a. Name and address of the library

10.2.b. Statement of the decision being appealed

10.2.c. Signatures of the Library Director and president of the board of library directors

10.2.d. Supporting documentation

10.2.e. Resolution sought

10.3. Failure to submit any of the above may delay the consideration of the appeal by the Library Commission.

10.4. The Secretary will review each appeal and determine if it has been adjudicated previously. If not, The Secretary will place the appeal on the agenda for the next regular meeting of the Library Commission and inform the appellant.

10.5. The appellant shall inform the Secretary if a brief oral presentation will be made at the Commission meeting. Presentations must be limited to ten minutes unless extended by action of the Commission.

10.6. The Library Commission shall review the appeal and issue a decision no later than the next regular meeting.

10.7. Appeal of any decision by the Library Commission may be made to the Circuit Court by the appellant according to the provisions of the West Virginia Code § 29A-5-1.

APPENDIX H - WEST VIRGINIA CODE, CHAPTER 6, ARTICLE 9A, "SUNSHINE LAW"**ARTICLE 9A. OPEN GOVERNMENTAL PROCEEDINGS.****§6-9A-1. Declaration of legislative policy.**

The Legislature hereby finds and declares that public agencies in this state exist for the singular purpose of representing citizens of this state in governmental affairs, and it is, therefore, in the best interests of the people of this state for the proceedings of public agencies be conducted openly, with only a few clearly defined exceptions. The Legislature hereby further finds and declares that the citizens of this state do not yield their sovereignty to the governmental agencies that serve them. The people in

delegating authority do not give their public servants the right to decide what is good for them to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments of government created by them.

Open government allows the public to educate itself about government decision making through individuals' attendance and participation at government functions, distribution of government information by the press or interested citizens, and public debate on issues deliberated within the government.

Public access to information promotes attendance at meetings, improves planning of meetings, and encourages more thorough preparation and complete discussion of issues by participating officials. The government also benefits from openness because better preparation and public input allow government agencies to gauge public preferences accurately and thereby tailor their actions and policies more closely to public needs. Public confidence and understanding ease potential resistance to government programs.

Accordingly, the benefits of openness inure to both the public affected by governmental decision making and the decision makers themselves. The Legislature finds, however, that openness, public access to information and a desire to improve the operation of government do not require nor permit every meeting to be a public meeting. The Legislature finds that it would be unrealistic, if not impossible, to carry on the business of government should every meeting, every contact and every discussion seeking advice and counsel in order to acquire the necessary information, data or intelligence needed by a governing body were required to be a public meeting. It is the intent of the Legislature to balance these interests in order to allow government to function and the public to participate in a meaningful manner in public agency decision making.

§6-9A-2. Definitions.

As used in this article:

- (1) "Decision" means any determination, action, vote or final disposition of a motion, proposal, resolution, order, ordinance or measure on which a vote of the governing body is required at any meeting at which a quorum is present.
- (2) "Executive session" means any meeting or part of a meeting of a governing body which is closed to the public.
- (3) "Governing body" means the members of any public agency having the authority to make decisions for or recommendations to a public agency on policy or administration, the membership of a governing body consists of two or more members; for the purposes of this article, a governing body of the Legislature is any standing, select or special committee, except the commission on special investigations, as determined by the rules of the respective houses of the Legislature.
- (4) "Meeting" means the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter which results in

an official action. Meetings may be held by telephone conference or other electronic means. The term meeting does not include:

(A) Any meeting for the purpose of making an adjudicatory decision in any quasi-judicial, administrative or court of claims proceeding;

(B) Any on-site inspection of any project or program;

(C) Any political party caucus;

(D) General discussions among members of a governing body on issues of interest to the public when held in a planned or unplanned social, educational, training, informal, ceremonial or similar setting, without intent to conduct public business even if a quorum is present and public business is discussed but there is no intention for the discussion to lead to an official action; or

(E) Discussions by members of a governing body on logistical and procedural methods to schedule and regulate a meeting.

(5) "Official action" means action which is taken by virtue of power granted by law, ordinance, policy, rule, or by virtue of the office held.

(6) "Public agency" means any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing, authorized by law to exercise some portion of executive or legislative power. The term "public agency" does not include courts created by article eight of the West Virginia constitution or the system of family law masters created by article four, chapter forty-eight-a of this code.

(7) "Quorum" means the gathering of a simple majority of the constituent membership of a governing body, unless applicable law provides for varying the required ratio.

§6-9A-3. Proceedings to be open; public notice of meetings.

Except as expressly and specifically otherwise provided by law, whether heretofore or hereinafter enacted, and except as provided in section four of this article, all meetings of any governing body shall be open to the public. Any governing body may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. This article does not prohibit the removal from a meeting of any member of the public who is disrupting the meeting to the extent that orderly conduct of the meeting is compromised: Provided, That persons who desire to address the governing body may not be required to register to address the body more than fifteen minutes prior to time the scheduled meeting is to commence.

Each governing body shall promulgate rules by which the date, time, place and agenda of all regularly scheduled meetings and the date, time, place and purpose of all special meetings are made available, in

advance, to the public and news media, except in the event of an emergency requiring immediate official action.

Each governing body of the executive branch of the state shall file a notice of any meeting with the secretary of state for publication in the state register. Each notice shall state the date, time, place and purpose of the meeting. Each notice shall be filed in a manner to allow each notice to appear in the state register at least five days prior to the date of the meeting.

In the event of an emergency requiring immediate official action, any governing body of the executive branch of the state may file an emergency meeting notice at any time prior to the meeting. The emergency meeting notice shall state the date, time, place and purpose of the meeting and the facts and circumstances of the emergency.

Upon petition by any adversely affected party any court of competent jurisdiction may invalidate any action taken at any meeting for which notice did not comply with the requirements of this section.

§6-9A-4. Exceptions.

(a) The governing body of a public agency may hold an executive session during a regular, special or emergency meeting, in accordance with the provisions of this section. During the open portion of the meeting, prior to convening an executive session, the presiding officer of the governing body shall identify the authorization under this section for holding the executive session and present it to the governing body and to the general public, but no decision may be made in the executive session.

(b) An executive session may be held only upon a majority affirmative vote of the members present of the governing body of a public agency. A public agency may hold an executive session and exclude the public only when a closed session is required for any of the following actions:

(1) To consider acts of war, threatened attack from a foreign power, civil insurrection or riot;

(2) To consider:

(A) Matters arising from the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of a public officer or employee, or prospective public officer or employee unless the public officer or employee or prospective public officer or employee requests an open meeting; or

(B) For the purpose of conducting a hearing on a complaint, charge or grievance against a public officer or employee, unless the public officer or employee requests an open meeting. General personnel policy issues may not be discussed or considered in a closed meeting. Final action by a public agency having authority for the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of an individual shall be taken in an open meeting;

(3) To decide upon disciplining, suspension or expulsion of any student in any public school or public college or university, unless the student requests an open meeting;

(4) To issue, effect, deny, suspend or revoke a license, certificate or registration under the laws of this state or any political subdivision, unless the person seeking the license, certificate or registration or whose license, certificate or registration was denied, suspended or revoked requests an open meeting;

(5) To consider the physical or mental health of any person, unless the person requests an open meeting;

(6) To discuss any material the disclosure of which would constitute an unwarranted invasion of an individual's privacy such as any records, data, reports, recommendations or other personal material of any educational, training, social service, rehabilitation, welfare, housing, relocation, insurance and similar program or institution operated by a public agency pertaining to any specific individual admitted to or served by the institution or program, the individual's personal and family circumstances;

(7) To plan or consider an official investigation or matter relating to crime prevention or law enforcement;

(8) To develop security personnel or devices;

(9) To consider matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the state or any political subdivision: Provided, That information relied on during the course of deliberations on matters involving commercial competition are exempt from

disclosure under the open meetings requirements of this article only until the commercial competition has been finalized and completed: Provided, however, That information not subject to release pursuant to the West Virginia freedom of information act does not become subject to disclosure as a result of executive session;

(10) To avoid the premature disclosure of an honorary degree, scholarship, prize or similar award;

(11) Nothing in this article permits a public agency to close a meeting that otherwise would be open, merely because an agency attorney is a participant. If the public agency has approved or considered a settlement in closed session, and the terms of the settlement allow disclosure, the terms of that settlement shall be reported by the public agency and entered into its minutes within a reasonable time after the settlement is concluded;

(12) To discuss any matter which, by express provision of federal law or state statute or rule of court is rendered confidential, or which is not considered a public record within the meaning of the freedom of information act as set forth in article one, chapter twenty-nine-b of this code.

§6-9A-5. Minutes.

Each governing body shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in section four of this article, minutes of all meetings except minutes of

executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

- (1) The date, time and place of the meeting;
- (2) The name of each member of the governing body present and absent;
- (3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and
- (4) The results of all votes and, upon the request of a member, pursuant to the rules, policies or procedures of the governing board for recording roll call votes, the vote of each member, by name.

§6-9A-6. Enforcement by injunctions; actions in violation of article voidable; voidability of bond issues.

The circuit court in the county where the public agency regularly meets has jurisdiction to enforce this article upon civil action commenced by any citizen of this state within one hundred twenty days after the action complained of was taken or the decision complained of was made. Where the action seeks injunctive relief, no bond may be required unless the petition appears to be without merit or made with the sole intent of harassing or delaying or avoiding return by the governing body.

The court is empowered to compel compliance or enjoin noncompliance with the provisions of this article and to annul a decision made in violation of this article. An injunction may also order that subsequent actions be taken or decisions be made in conformity with the provisions of this article: Provided,

That no bond issue that has been passed or approved by any governing body in this state may be annulled under this section if notice of the meeting at which the bond issue was finally considered was given at least ten days prior to the meeting by a Class I legal advertisement published in accordance with the provisions of article three, chapter fifty-nine of this code in a qualified newspaper having a general circulation in the geographic area represented by that governing body.

In addition to or in conjunction with any other acts or omissions which may be determined to be in violation of this article, it is a violation of this article for a governing body to hold a private meeting with the intention of transacting public business, thwarting public scrutiny and making decisions that eventually become official action.

Any order which compels compliance or enjoins noncompliance with the provisions of this article, or which annuls a decision made in violation of this article shall include findings of fact and conclusions of law and shall be recorded in the minutes of the governing body.

§6-9A-7. Violation of article; criminal penalties; attorney fees and expenses in civil actions.

(a) Any person who is a member of a public or governmental body required to conduct open meetings in compliance with the provisions of this article and who willfully and knowingly violates the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five

hundred dollars: Provided, That a person who is convicted of a second or subsequent offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars.

(b) A public agency whose governing body is adjudged in a civil action to have conducted a meeting in violation of the provisions of this article may be liable to a prevailing party for fees and other expenses incurred by that party in connection with litigating the issue of whether the governing body acted in violation of this article, unless the court finds that the position of the public agency was substantially justified or that special circumstances make an award of fees and other expenses unjust.

(c) Where the court, upon denying the relief sought by the complaining person in the action, finds that the action was frivolous or commenced with the primary intent of harassing the governing body or any member thereof or, in the absence of good faith, of delaying any meetings or decisions of the governing body, the court may require the complaining person to pay the governing body's necessary attorney fees and expenses.

§6-9A-8. Acting by reference; written ballots.

(a) Except as otherwise expressly provided by law, the members of a public agency may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting of the public agency to understand what is being deliberated, voted or acted upon. However, this subsection does not prohibit a public agency from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting.

(b) A public agency may not vote by secret or written ballot.

§6-9A-9. Broadcasting or recording meetings.

(a) Except as otherwise provided in this section, any radio or television station is entitled to broadcast all or any part of a meeting required to be open.

(b) A public agency may regulate the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting, so as to prevent undue interference with the meeting. The public agency shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference: Provided, That if the public agency, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the public agency, acting in good faith and consistent with the purposes of this article, may require the pooling of the equipment and the personnel operating it.

§6-9A-10. Open governmental meetings committee.

The West Virginia ethics commission, pursuant to subsection (j), section one, article two, chapter six-b of this code, shall appoint from the membership of the commission a subcommittee of three persons designated as the West Virginia ethics commission committee on open governmental meetings. The chairman shall designate one of the persons to chair the committee. In addition to the three members of the committee, two additional members of the commission shall be designated to serve as alternate members of the committee.

The chairman of the committee or the executive director shall call meetings of the committee to act on requests for advisory opinions interpreting the West Virginia open government meetings act. Advisory opinions shall be issued in a timely manner, not to exceed thirty days.

§6-9A-11. Request for advisory opinion; maintaining confidentiality.

(a) Any governing body or member thereof subject to the provisions of this article may seek advice and information from the executive director of the West Virginia ethics commission or request in writing an advisory opinion from the West Virginia ethics commission committee on open governmental meetings as to whether an action or proposed action violates the provisions of this article. The executive director may render oral advice and information upon request. The committee shall respond in writing and in an expeditious manner to a request for an advisory opinion. The opinion shall be binding on the parties requesting the opinion.

(b) Any governing body or member thereof that seeks an advisory opinion and acts in good faith reliance on the opinion has an absolute defense to any civil suit or criminal prosecution for any action taken in good faith reliance on the opinion unless the committee was willfully and intentionally misinformed as to the facts by the body or its representative.

(c) The committee and commission may take appropriate action to protect from disclosure information which is properly shielded by an exception provided for in section four of this article.

§6-9A-12. Duty of attorney general, secretary of state, clerks of the county commissions and city clerks or recorders.

It is the duty of the attorney general to compile the statutory and case law pertaining to this article and to prepare appropriate summaries and interpretations for the purpose of informing all public officials subject to this article of the requirements of this article. It is the duty of the secretary of state, the clerks of the county commissions, joint clerks of the county commissions and circuit courts, if any, and the city clerks or recorders of the municipalities of the state to provide a copy of the material compiled by the attorney general to all elected public officials within their respective jurisdictions. The clerks or recorders will make the material available to appointed public officials. Likewise, it is their respective duties to provide a copy or summary to any newly appointed or elected person within thirty days of the elected or appointed official taking the oath of office or an appointed person's start of term.