

Public Library System Board Training

Trustee Responsibility & Liability

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Today's Purpose

- Review trustee responsibility and liability for official actions
- Discuss the relationship between staff and trustees



Statute s. 43.17: Structure/Organization

- **Governed by a board appointed under s. 43.19**
 - **Serve 3-year terms, commencing on January 1; fiscal year is the calendar year**
 - **Responsibility for administration of the system shall vest in a head librarian who shall be appointed by and is directly responsible to the system board**
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Statute s. 43.19: Federated Library Systems

- Deemed a joint agency of member counties
- Constitute a separate legal entity with exclusive custody and control of all system funds
- Have authority to hold title to and dispose of property; construct, enlarge and improve buildings; make contracts; and may sue and be sued
- Shall have the powers of a public library board under s. 43.58 with respect to system-wide functions and services

Statute s. 43.58: Powers & Duties

- Exclusive control of all moneys and property
- Audit and approve all expenditures
- Hire/supervise a director who oversees all operations
- File an annual report to DLT
- May receive, manage and dispose of gifts as outlined in para.
- Claimants may bring action against the municipality or county

Division of Labor: Board and Director

System Board

- Supervises the director
- Full responsibility for provision of program of service and policy
- Visionary oversight

Director

- Supervises all staff
- Chief Operating Officer: oversees all operations of the system
- Professional in charge

Statute s. 43.17(9)(a): Contracts & Bidding

- **Construction contracts: let to the lowest responsible bidder in accordance with [s. 62.15](#) (1) - (11), (14).**
- **Same powers as conferred by s. 62.15 on the board of public works and the common council**
- **All contracts shall be made in the name of the library system and executed by the system board president and such other board officer as the board designates**

Statute s. 43.17(9)(a): Reference to s. 62.15

- (1) Contract rules, how let, and exceptions for in kind**
 - (2) Specs, forms, and bonds**
 - (3)-(9) Bidding and pre-construction process**
 - (10)-(11) Construction to completion**
 - (14) Nonbid contracts (does not apply here)**
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Statute s. 43.17(9)(b): Borrowing

- **May borrow money to accomplish any purpose, including state trust fund loans**
 - Outstanding amount may not exceed system board's receipts for the *prior fiscal year*
 - Trust fund loan cap must consider all other indebtedness of the system

Statute s. 43.58(3): Claims Against the Board

- If a claim is brought against the library board because of an act or omission of the board, the claimant may bring action against the municipality or county.
- The municipality or county is ultimately liable for any legal missteps by the library board, so municipal and county attorneys are generally willing to assist with such legal questions.

But What Does That Mean for Us?

- Municipal governing bodies have a legal responsibility to provide legal counsel to officers and employees (including library officers and employees)
 - They must also indemnify or pay for judgments for damages as well as other costs and legal fees
 - Wis. Stat. sec. [895.46\(1\)\(a\)](#) contains the details, including the limitations, of this law
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But What Does That Mean for Us?

- Trustees need fear no personal loss or liability for the honest performance of their official duties granted under s. [893.80\(4\)](#)
- Court cases generally consider public officials immune from individual liability for actions performed within scope of office
- Personal liability still possible for intentional or careless injuries or damages, illegal use of public funds or authority, ethics and conflict-of-interest law violations, public records law violations, and open meetings law violations

Your Best Protections

- Know the laws that apply to board actions & library operations
 - [Open Meetings Law](#) [State](#) and local ethics laws (examples)
 - [Public Records Law](#) [State and federal employment laws](#) (examples)
- Review policies using the [four-prong test of legal defensibility](#)
- Only speak for the system when authorized by the full board
- Consider the optics of conflict of interest
- Consult with an attorney

Additional Resources

- [Chapter 43](#)
 - [TE 2: Who Runs the Library](#)
 - [TE 25: Liability Issues](#)
 - [TE 3: Bylaws](#)
 - [TE 26: The Public Library System Board](#)
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Questions?

Thank you!

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