



## Chapter 3

# Indiana Library Laws and Other Laws Affecting Libraries

*Indiana public libraries must follow all applicable state and federal laws.*

Indiana public libraries are municipal corporations (units of local government) per IC 36-12-1-5 and political subdivisions per IC 36-1-2-13. The **Indiana Code (IC)** has a chapter dedicated to Indiana public libraries, [IC 36-12](#). This is commonly referred to as the “**Library Law**”. Indiana public library directors, staff, and trustees need to be very familiar with this section of the Indiana Code.

Public library directors, staff, and trustees should also be familiar with [the Indiana Administrative Code 590 \(IAC\) 3, 5, and 6](#). The Indiana Administrative Code consists of the administrative rules that Indiana public libraries must follow, including the Public Library Access Card (PLAC), certification, and public library standards.

There are other laws in the Indiana code and administrative code that apply to both public libraries and other Indiana political subdivisions. These laws include, but are not limited to the following:

- public purchasing
- public works
- real property
- building and fire codes
- financial provisions
- Open Door law
- Access to Public Records Act
- Taxing
- budgeting
- employment

In addition to Indiana law, there are **federal laws** that must be followed, such as:

- Family and Medical Leave Act: [www.dol.gov/whd/fmla/index.htm](http://www.dol.gov/whd/fmla/index.htm)
- Americans with Disabilities Act: [www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm)
- Fair Labor Standards Act: <https://www.dol.gov/agencies/whd>
- Equal Employment Opportunity Act [www.eeoc.gov/laws/index.cfm](http://www.eeoc.gov/laws/index.cfm)  
[www.dol.gov/dol/topic/discrimination/index.htm](http://www.dol.gov/dol/topic/discrimination/index.htm)

When there is a legal question concerning the laws the library must follow, your library attorney should be contacted. State Board of Accounts will accept the opinion of your library attorney, when that opinion is in writing from the attorney and not in direct conflict with the law.

The Indiana State Library also has an attorney to interpret Indiana law as it relates to libraries. However, each library may still want to have and use their own attorney for the final word on legal issues.

### **Indiana Open Door Law (IC 5-14-1.5)**

The Open Door Law (“ODL”), originally passed by the Indiana General Assembly in 1977, was enacted to permit the citizens of Indiana access to meetings held by public agencies. By providing the public with an opportunity to attend and observe meetings, the public may witness government in action and more fully participate in the governmental process. Because public libraries are taxpayer funded entities, it is important to keep public library business as transparent as possible to our funders.

### **Indiana Access to Public Records Act (IC 5-14-3)**

The Access to Public Records Act (“APRA”), originally passed by the Indiana General Assembly in 1983, was enacted to permit the citizens of Indiana broad and easy access to public records. By providing the public with the opportunity to review and copy public records, the APRA gives individuals the opportunity to obtain information relating to their government and to more fully participate in the governmental process. Again, transparency is the goal as public agencies are accountable to the taxpayers that fund them.

The [Handbook on Indiana’s Public Access Laws](#) sets forth the basic elements of the Open Door Law and the Access to Public Records Act and also provides answers to commonly asked questions. In order to find answers to more specific questions, please consult the provisions of the Indiana Code.

The State has a **Public Access Counselor** who is available to answer questions about the Open Door Law.

[Office of the  
Public Access Counselor](#)

W470, Indiana Government Center South  
402 West Washington Street  
Indianapolis, IN 46204  
317-234-0906  
800-228-6013  
Fax 317-233-3091

Past advisory opinions can also be found on the web at [www.in.gov/pac/2330.htm](http://www.in.gov/pac/2330.htm)

## **Americans with Disabilities Act (ADA) [www.ada.gov](http://www.ada.gov)**

The intent of the law is to provide the person with a disability equal access to library facilities, information, computer technology, programs, services, and other resources.

The Americans with Disabilities Act (ADA) was passed July 26, 1990 as Public Law 101-336 (42 U.S.C. Sec. 12101 et seq). The ADA was enacted to create a balance between the reasonable accommodation of citizens' needs and the capacity of private and public entities to respond. It is not an affirmative action law but is intended to eliminate discrimination and level the playing field for disabled individuals.

The Americans with Disabilities Act extends civil rights protection to people with disabilities. These rights include equal access to employment, public services, public accommodations provided by public and private entities, transportation, and telecommunications resources.

The law is comprised of five titles with Titles I and II being the primary sections that affect libraries.

**Title I** requires employers to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. For example, it prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities, and other privileges of employment. It restricts questions that can be asked about an applicant's disability before a job offer is made, and it requires that employers make reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship.

**Title II** requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities.

State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities.

Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.

## **Sales (Library / Friends Group)**

According to **IC 36-12-3-5**, the library board may sell, exchange, or otherwise dispose of real property and personal property no longer needed for library purposes in accordance with IC 36-1-11 and IC 5-22.

The library board may transfer personal property no longer needed for library purposes for no compensation or a nominal fee to an Indiana nonprofit library organization that is (1) tax exempt, and (2) organized and operated for the exclusive benefit of the library disposing of the property, without complying with IC 36-1-11 or IC 5-22. (This would be the library's 501(c)3 Friends group)

The library board may accept gifts of real or personal property and hold, mortgage, lease, or sell the property as directed by the terms of the grant, gift, bequest, or devise, when the action is in the interest of the public library.

In order to be eligible to receive personal property from the library, the Friends of the Library must:

- (a) be registered with the Indiana Secretary of State as a nonprofit corporation;
- (b) obtain Employee Identification Number (EIN) (even if there will be no employees);
- (c) obtain tax-exempt status under Internal Revenue Code Section 501(c)3; and
- (d) obtain state sales tax exemption.

### **Sales of merchandise by a Library**

See Sales Tax Bulletin #4 (link provided below)

Sales by state and local agencies are tax exempt unless the sale involves a "proprietary" (nontraditional) activity. According to the Indiana Department of Revenue (IDOR), "an activity is proprietary when it is not necessary in the performance of a library's governmental function of lending books, providing reference materials, providing access to the internet...etc." and when it is an activity competing with the private sector.

According to IDOR, examples of taxable sales are sales of USB drives, book bags or book marks, sales of books if the books were purchased for resale and not for the library's exempt function of loaning books to patrons, etc.

According to IDOR, examples of non-taxable "sales" are library card fees, debt collection fees, printing and copying fees, penalties and fines, sales of books originally purchased and used by the library for lending to patrons, etc.

### **Sales by the Friends Group – carried on fewer than 31 days in one calendar year**

See Sales Tax Bulletin #10 (link provided below)

"Sales of tangible personal property by qualified nonprofit organizations carried on for a total of not more than thirty (30) days in a calendar year and engaged in as a fund raising activity to raise funds to further the qualified nonprofit purposes of the organization are exempt from sales tax"

## **Sales by the Friends Group - carried on more than 30 days in a calendar year**

See Sales Tax Bulletin #10 (link provided below)

If the library's Friend's organization conducts sales for more than 30 days in a calendar year, it is possible that those sales are also exempt from the collection of sales tax. There is a sales tax exemption for sales of the following property by a public library (or a charitable organization formed to support a public library): (1) Items in the library's circulated and publicly available collections, including items from the library's holdings. (2) Items that would typically be included in the library's circulated and publicly available collections and that are donated by individuals or organizations to a public library (or to a charitable organization formed to support a public library). This means that sales of qualifying items (used books, CDs, DVDs, etc.) are not subject to the collection of sales tax even if the library or library's Friend's group engages in sales of these items for more than 30 days in a calendar year. Other, non-qualifying items, would be subject to sales tax.

If an organization conducts tax producing sales or fund raising activities during thirty-one (31) or more days in a year, they also must register with IDOR. A single application (Form BT-1) is used to register with the IDOR for sales tax, innkeepers' tax, and food and beverage tax. A separate application is required for each business location. Form BT-1 can be completed online at <https://secure.in.gov/apps/dor/bt1/> Similarly, if the library was assisting the Friends group with its sales, the library also would collect the tax.

A Friends group will need to report to IDOR annually, quarterly or monthly depending on how much sales tax the group estimates on the BT-1 that it will collect. Generally, a 12-month/year business operation will report and pay sales tax monthly.

### **Resources for additional information:**

- **Sales Tax Bulletin #4** Sales to and by Indiana State and Local Governments and the United States Government and Its Agencies <https://secure.in.gov/dor/reference/files/sib04.pdf>
- **Sales Tax Bulletin #10** Application of Sales Tax to Nonprofit Organizations <https://www.in.gov/dor/files/sib10.pdf>
- **Indiana Department of Revenue (IDOR)**  
[www.in.gov/dor/3325.htm](http://www.in.gov/dor/3325.htm)  
Sales Tax: (317) 233-4015

**Please check with IDOR or your library's attorney if further information is needed.**

## Policies and Plans Required by Law

The Library Development Office has copies of plans, by-laws, and policies from other public libraries if you are interested in seeing sample documents. The Library Development Office has also created a template for board by-laws which can be found on the Library Development Office website. Also consult Chapter 2, Public Library Standards, for more information on the required plans and policies.

For examples of **policies** from Indiana public libraries: [www.in.gov/library/3290.htm](http://www.in.gov/library/3290.htm)

For examples of **plans** from Indiana public libraries: <http://www.in.gov/library/templates.htm>

### Policies/plans needed to fulfill the *minimum requirements*:

#### Library Board By-laws

- Outlines purpose and operational procedures and
- Addresses conflicts of interest issues and nepotism
  - The rules governing conflicts of interest shall be at least as restrictive as IC 35-44.1-1-4.
  - The rules governing nepotism shall be at least as restrictive as IC 36-1-20.2.
- Review at least every three (3) years
- Amendments submitted each year with annual report

#### Long-Range Plan

A long-range plan of service for between three (3) to five (5) years. The plan, updates, and revisions must be filed with the Indiana State Library. At a minimum, the plan shall include the following:

- (A) A statement of community needs and goals.
- (B) An assessment of facilities, services, technology, and operations.
- (C) Measurable objectives and service responses to the community's needs and goals.
- (D) An ongoing evaluation process.
- (E) Financial resources and sustainability.
- (F) An equipment replacement schedule.
- (G) A professional development strategy.
- (H) Collaboration with other public libraries and community partners.

Public Library Standards also require the library to have the following in place:

- **Collection Development Policy**
- **Principles of access to all library materials and services, including a schedule of fines and Internet access policy**
- **A schedule of classification of employees**
- **An annual schedule of salaries**
- **Proposed library budget**
- **Long range plan of service of between 3-5 years**
- **Library policies**

- **Personnel policy and procedures that address at least the following:**
  - Employment practices, such as recruitment, selection and appointment
  - Personnel actions
  - Salary administration
  - Employee benefits
  - Conditions of work
  - Leaves

Information on compensation and benefits is found on State Board of Accounts' website at <http://www.in.gov/sboa/4450.htm> under the drop down menu under **Indiana Codes** for political subdivisions, libraries (could be a part of the personnel policy)

A useful resource is *Model Employee Policies for Indiana Employers with Legal Commentary*. 6<sup>th</sup> edition. Indiana Chamber, 2011. Borrow from Indiana State Library or call the Indiana Chamber at 800-824-6885 for pricing.

### **Disaster Recovery Plan for Computer Systems**

An Information Technology Manual is located on the State Board of Accounts website at <http://www.in.gov/sboa/4450.htm>. Locate **Manuals** under **Uniform Compliance Guidelines** under political subdivisions, libraries.

### **Internet Acceptable Use Policy (IC 36-12-1-12)**

- Must be reviewed annually and
- Must address the appropriate use of the Internet or other computer network by library patrons in all areas of the library

For libraries receiving the eRate discount, or LSTA grants, the policy must also be an Internet Safety Policy and after providing reasonable notice and holding at least one public meeting, the library must approve a policy that addresses the following:

- access by minors to inappropriate content on the Internet and World Wide Web
- the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications
- unauthorized access, including hacking, and other unlawful activities by minors online
- unauthorized disclosure, use, and dissemination of personal identification information regarding minors
- measures designed to restrict minors' access to materials harmful to minors
- how to disable the filter (Who, what, where and why?)

[Children's Internet Protection Act](#) (CIPA) and Neighborhood Children's Internet Protection Act (N-CIPA) (PL 106-554)



### **Investment Policy**

IC 5-13-7-7, see State Board of Accounts website <http://www.in.gov/sboa/4450.htm> for “political subdivisions...libraries.” Then drop down menu for **Deposit and Investment of Funds** found under **Indiana Codes**.

### **Purchasing Policy**

Public Purchasing Indiana Codes also found on State Board of Accounts website <http://www.in.gov/sboa/4450.htm> for “political subdivisions...libraries.” Then drop down menu for **Public Purchasing Law** found under **Indiana Codes**.

### **Records Exempted from Disclosure Policy**

IC 5-14-3-4, see State Board of Accounts website at <http://www.in.gov/sboa/4450.htm> for “political subdivisions...libraries.” Then drop down menu for **Public Records** found under **Indiana Codes**.

### **Moving and Interview Expense Policy (If the library will pay such expenses)**

[IC 36-12-2-24\(c\)](#) (Could be a part of the Personnel policy)

**Travel Policy (If the library will pay such expenses)** See [Accounting and Uniform Compliance Guidelines Manual for Libraries Chapter](#) page 8-3 (Can be part of Personnel policy). Also found here <http://www.in.gov/sboa/4450.htm> page 1-13 under **Uniform Compliance Guidelines**, then **Manuals**. Each unit must adopt a written travel policy in conformity with applicable laws. Reimbursement for lodging and meals must be based upon actual receipts for amounts paid unless otherwise authorized by law.

## **Personnel Policies Checklist**

The list below includes possible topics for inclusion in a public library's personnel policies:

1. **Employment-At-Will Disclaimer**
2. **Job Classifications**; full-time and part-time status
3. **Orientation/Trial Period**
4. **Equal Employment Opportunity Statement**
5. **Sexual Harassment Policies**
6. **Work Rules and Disciplinary Policy and Procedures** — common items may be:
  - excessive absences, tardiness, or early leaves
  - use, possession, actual or intended distribution or being under the influence of drugs, controlled substances, or alcohol
  - insubordination
  - refusal to cooperate with investigation
  - falsification of library records, including the employment application
  - negligent or unauthorized use of library equipment
  - harassment, physical or verbal abuse of employees, patrons, or visitors
  - gambling during working hours
  - theft or unauthorized use or possession of library property or another person's property
  - soliciting or seeking support or contributions during working time for any cause or organization without management approval
  - violation of safety rules or common safety practices
  - failure to make a prompt report of any accident on library property
  - inattention to the job or poor job performance
  - failure to observe library working hours and schedules, including scheduled overtime
  - disclosure of confidential information to unauthorized persons
7. **Hours of Work, Layoff/Recall**
8. **Military Leave**
9. **Jury Service**
10. **Bereavement Leave**
11. **Attendance Policy**
12. **Vacation**

13. **Holidays**
14. **Personal Days**
15. **Sick Days**
16. **Union-Free Workplace Statement**
17. **Open Door Statement** (do not restrict employees from communicating with members of management other than their immediate supervisors)
18. **Bulletin Boards** — fosters communication between employees
19. **Substance Abuse Policy**
20. **Family and Medical Leave Act Policies**
21. **Smoking** – prohibited in facility and within 8 feet of public entrances
22. **Dress Code**
23. **References**
24. **Promotion/Transfer/Job Openings**
25. **Timekeeping Requirements**
26. **Health Insurance, Health Savings Accounts, Disability Benefits Programs, Deferred Compensation, and InPRS (pensions)**
27. **Confidential Information**
28. **Personal Belongings**
29. **Employment of Relatives**
30. **Safety and Health**
31. **Inclement Weather/Emergencies**
32. **Telephone** (for customer satisfaction and customer and staff personal calls)
33. **Internet/E-mail**
34. **Employee Examination of Personnel Files** — employer must provide employee access to his/her personnel file; documents should not be removed.
35. **Termination of Employment**
36. **Receipt/Acknowledgement** – helps to ensure that the employee has read the handbook

For examples of standardized policies and procedures see the Indiana State Personnel Department webpage: <http://www.in.gov/spd/2396.htm>

See also “Chapter 10 Employment Practices, Workers Rights” in this Manual.

When you develop a new policy or update an old policy, please email a copy to the Library Development Office.

# Manuals and Publications: Management Necessities for Public Libraries

## **1. Accounting and Uniform Compliance Guidelines Manual for Libraries**

Often referred to as the “Budget Manual.” Available online at State Board of Accounts website: <http://www.in.gov/sboa/4450.htm> for “political subdivisions...libraries.” Then drop down **Uniform Compliance Guidelines**, then **Manuals**. Note: reduced to four chapters and an Appendix because additional information is found under the following headings: Internal Control Standards, Indiana Codes, Deposit and Investment of Funds, Public Purchasing Law, etc. Please explore all the topics to find what relates to libraries.

## **2. Handbook on Indiana’s Public Access Laws**

This handbook is prepared by the Office of the Attorney General and Office of the Public Access Counselor and is available online at:  
<http://www.in.gov/pac/files/PAC%20Handbook%202017.pdf>

## **3. Library Laws IC 36-12**

Please consult the online edition of Indiana Library Laws which contains the most current information at the following webpage:  
<http://iga.in.gov/legislative/laws/2020/ic/titles/036/#36-12>

## **4. Indiana Administrative Code**

Please consult the online edition of the Indiana Administrative Code for the most current information. [www.in.gov/legislative/iac/iac\\_title?iact=590](http://www.in.gov/legislative/iac/iac_title?iact=590)

## **5. Indiana Library Resource Sharing Manual (2016):** <http://www.in.gov/library/IRS.htm>

## **6. Indiana Public Library Directory (Updated regularly)** [www.in.gov/library/pldirectory.htm](http://www.in.gov/library/pldirectory.htm)

## **7. IN The Public Trust: A Reference Manual for Indiana Public Library Board Members** (1993, revised 2014): [https://www.in.gov/library/files/In\\_the\\_Public\\_Trust\\_20141001.pdf](https://www.in.gov/library/files/In_the_Public_Trust_20141001.pdf)

\*see the Survival Guide’s Chapter 2 – Library Board Information

## **8. Statistics of Indiana Public Libraries**

Annual edition available at: [www.in.gov/library/plstats.htm](http://www.in.gov/library/plstats.htm)