

## 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. The **Indiana Code (IC)** has a chapter dedicated to public libraries in Indiana, **IC 36-12** [www.in.gov/legislative/ic/code/title36/ar12/](http://www.in.gov/legislative/ic/code/title36/ar12/). 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**.

Indiana public libraries must also be familiar with the **Indiana Administrative Code 590 (IAC) 3, 5, and 6**, [www.in.gov/legislative/iac/title590.html](http://www.in.gov/legislative/iac/title590.html), listing the public library administrative rules that libraries must follow, including the Public Library Access Card (PLAC), certification and public library standards.

Other laws that must be followed are listed in the **Indiana Code** and are followed by all political subdivisions in Indiana. These include, but are not limited to:

- public purchasing
- public works
- Indiana Open Door law
- Access to Public Records Act
- bonding
- real property
- building and fire codes
- budgeting

There are also federal laws that must be followed such as:

- Affordable Care Act [www.hhs.gov/healthcare/rights/index.html](http://www.hhs.gov/healthcare/rights/index.html)
- 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, [www.dol.gov/dol/compliance/comp-flsa.htm](http://www.dol.gov/dol/compliance/comp-flsa.htm)
- 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 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 has a general counsel 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.

### **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.

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 Handbook on Indiana’s Public Access Laws may be found at [http://www.in.gov/pac/files/PAC\\_Handbook\\_update\\_draft\\_7\\_17\\_2013\\_\(changes\\_accepted\).pdf](http://www.in.gov/pac/files/PAC_Handbook_update_draft_7_17_2013_(changes_accepted).pdf)

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

Public Access Counselor  
Phone: 317-233-9435 or 1-800-228-6013  
Fax: 317-233-3091  
[www.in.gov/pac/](http://www.in.gov/pac/)

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.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm)

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.

**ADA Home Page:** [www.ada.gov/](http://www.ada.gov/) (for more information and technical assistance)

## 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. (501c3 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);
- (d) obtain state sales tax exemption;
- (e) apply to the Indiana Department of Revenue (IDOR) using Form BT-1 for a sales tax ID number if the Friends will have employees or sell tangible goods for more than thirty (30) days.

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.

### **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 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 Friend’s 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"

If a Friends group sells books or other items less than thirty-one days in a calendar year, it is exempt from charging sales tax. Assume that a Friends group is selling tangible personal property inside the library and the estimated length of sales days is less than 31 in the calendar year. If the group was to leave the premises for a lunch break and left a sign instructing a patron to take the merchandise to the library's check-out desk to make the purchase, the library would not collect sales tax. According to the IDOR, the library would be assisting the nonprofit in the sales of the nonprofit's merchandise and thus, would not need to collect sales tax.

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

See Sales Tax Bulletin #10 (link provided below)

"If an organization conducts sales or fund raising activities during thirty-one (31) or more days in a They also must register as nonprofit organizations. A single application (Form BT-1) is used to register with the Indiana Department of Revenue for sales tax, innkeepers' tax, and food and beverage tax. A separate application is required for each business location. The nonrefundable application fee for a Retail Merchant's Certificate is \$25. 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.

### **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 [www.in.gov/dor/reference/bulletins/sales/pdf/sib04.pdf](http://www.in.gov/dor/reference/bulletins/sales/pdf/sib04.pdf)
- **Sales Tax Bulletin #10** Application of Sales Tax to Nonprofit Organizations [www.in.gov/dor/reference/bulletins/sales/pdf/sib10.pdf](http://www.in.gov/dor/reference/bulletins/sales/pdf/sib10.pdf)
- **Accounting and Uniform Compliance Guidelines Manual for Public Libraries** (Ch. 13) [www.in.gov/sboa/files/lib2010\\_013.pdf](http://www.in.gov/sboa/files/lib2010_013.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**

Included in this chapter are the policies and plans public which library boards must adopt. The Library Development Office has copies of by-laws and policies from other public libraries if you are interested in seeing sample polices. The Library Development Office has also created a template for board by-laws. Also consult Chapter 2, Public Library Standards.

When you develop a new policy or update an old policy, the State Library requests that you email us an electronic copy for the virtual vertical file or the Internet address so that we may create a link to it from the State Library's Web site.

For examples of *policies from Indiana public libraries*, go to the following link on the State Library's Internet site: [www.in.gov/library/3290.htm](http://www.in.gov/library/3290.htm)

For examples of *plans from Indiana public libraries*, go to the following link on the State Library's Web site: [www.in.gov/library/3308.htm](http://www.in.gov/library/3308.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
- Review at least every three (3) years
- Bylaws filed with the Indiana State Library within 60 days of adoption
- Amendments submitted each year with annual report

#### **Long-Range Plan**

- Covers between three (3) to five (5) years of service
- States community needs and goals
- Contains measurable objectives and service responses
- Assesses facilities, services, technology and operations
- Ongoing annual evaluation process
- Addresses financial resources and sustainability
- Includes plan to collaborate with other libraries and community partners
- Plan filed with the Indiana State Library
- Updates and revisions must be filed with the Indiana State Library

#### **Technology Plan**

- Covers three (3) years
- Goals and strategy for using telecommunications and information technology
- Contains a professional development strategy
- Assesses telecommunication services, hardware, and software
- Includes an equipment replacement schedule
- Includes a plan for financial resources and sustainability
- Contains an ongoing annual evaluation process
- Includes an automation plan that conforms to national cataloging standards

This plan, covering three years including the eRate budget year, must be approved and on file with the Indiana State Library in order to apply for and receive the eRate discount on Internet

lines. For additional information see Chapter 10 on eRate. You are still required to submit a technology plan even if you do not apply for federal eRate funding.

Standards require the following:

**Collection Development Policy**

**Principles of Access/**

**Annual Classification of Employees**

**Schedules of Salaries**

**Library policies**

- **Circulation Policy, Including a Fines and Fees Policy**
  - See *Accounting and Uniform Compliance Guidelines Manual for Libraries* 1-3

**Personnel policy and procedures**

- (1) Employment practices, such as:
  - i. Recruitment
  - ii. Selection
  - iii. Appointment
- (2) Personnel actions
- (3) Salary administration
- (4) Employee benefits
- (5) Conditions of work
- (6) Leaves

See *Accounting and Uniform Compliance Guidelines Manual for Libraries* 8-1 (could be a part of the personnel policy)

A useful resource is *Model Employee Policies for Indiana Employers with Legal Commentary*. 4<sup>th</sup> edition. Indiana Chamber, 2003. Borrow from Indiana State Library or call Indiana Chamber at 800-824-6885 for pricing.

**Disaster Recovery Plan for Computer Systems**

See *Accounting & Uniform Compliance Guidelines Manual for Libraries* 5-4

**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

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 *Accounting and Uniform Compliance Guidelines Manual for Libraries* 9-14

**Purchasing Policy**

IC 5-22-3-3, see *Accounting and Uniform Compliance Guidelines Manual for Libraries* (Small Purchase Policy-under \$50,000) 10-7

**Records Excepted from Disclosure Policy**

IC 5-14-3-4, see *Accounting and Uniform Compliance Guidelines Manual for Libraries* 6-4 and

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

IC 36-12-2-24(c), see *Accounting and Uniform Compliance Guidelines Manual for Libraries* 8-4 (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* 8-3 (Can be part of Personnel policy)

## **Personnel Policies Checklist** (Possible topics to cover)

For examples of policies and procedures see the Indiana State Personnel Department webpage [www.in.gov/spd/2393.htm](http://www.in.gov/spd/2393.htm).

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

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

# Manuals and Publications: Management Necessities for Public Libraries

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

Reissued 2010, revised yearly, (often referred to as “Budget Manual”), request copies from State Board of Accounts: 1-317-232-2521. This manual is now on the Internet and can be downloaded: [www.in.gov/sboa/2404.htm](http://www.in.gov/sboa/2404.htm)

You can then search the manual using the “find” function of your document.

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

The revised edition (updated November 2011) is available online, prepared by the Office of the Attorney General and Office of the Public Access Counselor.

[http://www.in.gov/pac/files/PAC\\_Handbook\\_update\\_draft\\_7\\_17\\_2013\\_\(changes\\_accepted\).pdf](http://www.in.gov/pac/files/PAC_Handbook_update_draft_7_17_2013_(changes_accepted).pdf)

## **3. Indiana Library Resource Sharing Manual (2010):**

[www.in.gov/library/3288.htm](http://www.in.gov/library/3288.htm)

## **4. Indiana Public Library Directory (Updated regularly)**

[www.in.gov/library/pldirectory.htm](http://www.in.gov/library/pldirectory.htm)

## **5. IN The Public Trust: A Reference Manual for Indiana Public Library Board Members (1993, revised 2012):** [www.in.gov/library/3274.htm](http://www.in.gov/library/3274.htm)

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

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

Please consult the online edition of Indiana Library Laws which contains the most current information at the following webpage:

[www.ai.org/legislative/ic/code/title36/ar12/index.html](http://www.ai.org/legislative/ic/code/title36/ar12/index.html)

## **7. 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)

## **8. Statistics of Indiana Public Libraries (Annual edition available at):**

[www.in.gov/library/plstats.htm](http://www.in.gov/library/plstats.htm)