

LIBRARY LAWS

I.C. § 36-12

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IC § 36-12 LIBRARIES

- ❖ IC § 36-12-1 Definitions & General Provisions
- ❖ IC § 36-12-2 Class 1 Public Libraries: Org. & board
- ❖ IC § 36-12-3 Powers & Duties of Class 1 Public Libs.
- ❖ IC § 36-12-4 Merger of Class 1 Public Libraries
- ❖ IC § 36-12-5 Expansion of Class 1 Public Libraries
- ❖ IC § 36-12-6 County Contractual Libraries
- ❖ IC § 36-12-7 Class 2 Public Libraries
- ❖ IC § 36-12-10 Leasing of Library Property
- ❖ IC § 36-12-11 Library Certification Board
- ❖ IC § 36-12-12 Library Capital Projects Fund
- ❖ IC § 36-12-13 Interstate Library Compact
- ❖ IC § 36-12-15 Free Public Use of School Libraries

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IC § 36-12-1 DEFINITIONS & GENERAL PROVISIONS

- ❖ A “Public Library” is a municipal corporation that provides library services

- ❖ Library services include:
 1. Collecting and organizing books and other library materials; and
 2. Providing reference, loan, and related services to library patrons.

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IC § 36-12-1 DEFINITIONS & GENERAL PROVISIONS

Classifications

- ❖ Class 1
 - Public libraries established after 1947
 - Public libraries established prior to 1947 that have filed a resolution of conversion

- ❖ Class 2
 - Public libraries established prior to 1947 that have NOT filed a resolution of conversion

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**IC § 36-12-1
DEFINITIONS & GENERAL PROVISIONS**

Internet Policy (I.C. § 36-12-1-12)

- ❖ Requires library boards develop appropriate computer use policies if they allow patrons to use computers to access the internet
- ❖ Policy shall be reviewed annually
- ❖ Policy shall at all times be accessible to patrons (hint: post at computer stations)

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**IC § 36-12-1
DEFINITIONS & GENERAL PROVISIONS**

Criminal History Checks (IC § 36-12-1-14)

- ❖ Library must have a policy regarding conducting criminal history checks for employees and volunteers over the age of 18.

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

- ❖ Procedure for establishing a new library
- ❖ Corporate boundaries and annexation
- ❖ Procedures for transfer of territory
- ❖ Requirements for Board Appointments for different types of libraries
- ❖ Board member term length &
- ❖ Number of terms a board member can serve
- ❖ Library cards & library employees
- ❖ Library dissolution

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

IC § 36-12-2-2 Libraries may:

- ❖ contract and be contracted with;
- ❖ sue and be sued in court; and
- ❖ each library is an independent taxing unit

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

IC § 36-12-2-3 – Annexation

- ❖ Library boundary is coextensive with city or town
- ❖ City or town annexes additional territory
- ❖ Area annexed is not already served by another library
- ❖ Library annexes the same area annexed by city or town
- ❖ File statement with ISL & County Recorder

IC § 36-12-2-4 – Territory Transfers

- ❖ Majority of both boards must agree & pass Resolution of Transfer
- ❖ File statement with ISL & County Recorder

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Appointments IC 36-12-2-9 through IC 36-12-2-17

- ❖ Public Libraries are governed by boards
(usually 7 members)
- ❖ Appointing authorities are responsible for board appointments
- ❖ Appointing authorities vary based on your service district

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Member Residency Requirements I.C. § 36-12-2-7

- ❖ Library board appointee must RESIDE in library district during the time the appointee is on the library board and must have resided in the library district for, at minimum, the 2 years immediately prior to the appointment
- ❖ 1 appointee can be made from a contracting township

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Certificate of Appointment; Oath of Office

I.C. § 36-12-2-19 & I.C. § 5-4-1-1.2 & I.C. § 5-4-1-4

- Appointing authority issues signed appointment certificate to appointee
- Appointee must take oath of office within 10 days of receiving the certificate
- Within 30 days of the beginning of the term of office, appointee files certificate and endorsed oath with circuit court clerk and public library
- Office becomes vacant as a matter of law if certificate is not timely filed with the circuit court clerk

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Terms I.C. § 36-12-2-8 & 18

- ❖ Unless the appointee is appointed to fill a mid-term vacancy, term is for a period of 4 years
- ❖ Appointee may not serve more than 4 consecutive 4-year terms
- ❖ Unexpired term of 2 years or less that appointee serves in filling a vacancy on the library board does not count when computing consecutive terms

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Terms ctd. I.C. § 36-1-8-10(d)

Notwithstanding any other law, if the term of an appointed member of a board expires and the appointing authority does not make an appointment to fill the vacancy, both of the following apply:

- ❖ (1) The member may continue to serve on the board for only ninety (90) days after the expiration date of the member's term.
- ❖ (2) The county chair of the political party of the member whose term has expired shall make the appointment.

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Member Removal I.C. § 36-12-2-20(a)

Appointing Authority may remove appointee board member at any time after a public hearing for any cause:

- ❖ that interferes with the proper discharge of the member's duties as a member of the board; or

- ❖ that jeopardizes public confidence in the member

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Vacancy I.C. § 36-12-2-20(b)

- ❖ Vacancy occurs whenever a board member is absent from 6 consecutive regular board meetings for any cause other than illness.

- ❖ The Board Secretary notifies the appointing authority

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Compensation I.C. § 36-12-2-21

- ❖ Library board members SHALL serve without compensation
- ❖ With the exception of the Treasurer, a board member may not serve as a paid employee of the public library

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Treasurer I.C. § 36-12-2-22

- ❖ Must be elected annually
- ❖ Can be a board member or employee
- ❖ Can be removed by majority board vote
- ❖ Must give a surety bond

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Treasurer ctd. I.C. § 36-12-2-22

- ❖ Official custodian of all library funds;
- ❖ Responsible for the safeguarding and accounting of all library funds;
- ❖ Issues warrants approved by the library board in payment of expenses lawfully incurred on behalf of the public library; and
- ❖ Makes and presents finance reports to the board monthly

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Board Meetings I.C. § 36-12-2-23

- ❖ Officers of the board shall be elected annually
- ❖ Board shall adopt and abide by bylaws
- ❖ 4 library board members constitutes a quorum
- ❖ Board must meet at least monthly and should meet any time necessary
- ❖ Meetings may be called by president or any 2 other board members

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Selection of Employees I.C. § 36-12-2-24

- ❖ Board selects Director
- ❖ Board employs and discharges librarians and other individuals who are necessary in the administration of the library's affairs
- ❖ Also covers reimbursement of interview expenses, moving expenses, and severance pay

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Library Fines, Fees, & Cards I.C. § 36-12-2-25

- ❖ Libraries may create and collect fees and rental charges
- ❖ Libraries may assess fines, penalties, and damages
- ❖ Residents of the library district are eligible for free library cards; Non-residents must pay the non-resident fee (formula provided in the law) Some exceptions,,,

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

At the board's discretion and per library policy/resolution, free or reduced fee cards may be provided to:

- ❖ Library employees
- ❖ Students at pre-k – grade 12 as well as colleges and universities (school/school district is at least in part within the library district)
- ❖ Teachers (same rules as students)
- ❖ children in a foster care setting in the district

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**IC § 36-12-2
CLASS 1 LIBRARIES
ORGANIZATION AND BOARD MEMBERS**

Library Dissolution I.C. § 36-12-2-26

- ❖ All affected political subdivisions must adopt identical resolutions proposing to initiate dissolution.
- ❖ Resolutions filed with ISL & County Recorder
- ❖ Legal, fiscal obligations are satisfied; assets dist.
- ❖ Notice of completion

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

- ❖ Authorizes contracting for library services
- ❖ Bond issuance; liability for indebtedness; tax levy; finance powers; appropriations
- ❖ Authorizes the board to adopt policies for purchases and disbursements
- ❖ Requires library to establish certain funds
- ❖ Authorizes the collection of money and library property due to the library
- ❖ Authorizes library to transact via EFT

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

Board Authority I.C. § 36-12-3-3, 4 & 6

- ❖ Make rules for discharging board responsibilities
- ❖ Manage and insure library's real and personal property
- ❖ Establish and furnish as many buildings and branches as necessary for library purposes
- ❖ May establish a museum connected to the library
- ❖ provide for the: (1) purchase and loan of books and other media of communication; and (2) dissemination of information to the residents of the library district in any manner

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

Acquisition and disposal of property I.C. § 36-12-3-5

- ❖ Board may acquire property by purchase, lease, devise condemnation or other
- ❖ Board may sell, exchange or otherwise dispose of property in accordance with I.C. § 36-1-11 & I.C. § 5-22
- ❖ Board may transfer property no longer needed to 501(c)(3) Friends organization
- ❖ Board may accept gifts, bequests when in the library's best interest

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

PLAC & Reciprocal Borrowing I.C. § 36-12-3-2

- ❖ Requires public libraries to participate in the statewide library card (PLAC) program
- ❖ Provides libraries may also enter into reciprocal borrowing arrangements

PLAC rules: http://iac.iga.in.gov/iac//iac_title?iact=590

Service Contracts I.C. § 36-12-3-2

- ❖ May contract to provide service to any library, city, town, township, or county

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

Bonds I.C. § 36-12-3-9

- ❖ Acquisition or improvement of library sites
- ❖ Acquisition, construction, extension, alteration, or improvement of structures and equipment
- ❖ Refund outstanding bonds and matured interest coupons and to issue and sell refunding bonds for that purpose
- ❖ Must advertise and sell bonds in compliance with I.C. § 5-1-11
- ❖ Must be paid off in 20 years or less

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

Financial Powers I.C. § 36-12-3-10

- ❖ Adopt a resolution to make loans or issue notes to refund the loan in anticipation of tax revenue (5 yr. loan term limit)
- ❖ Borrow money
- ❖ Issue, negotiate, and sell negotiable notes and bonds
- ❖ Levy assess and collect taxes
- ❖ Create a sinking fund for the liquidation of the principal of the bond when the principal of the bond becomes due

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

Library Funds I.C. § 36-12-3-11

- ❖ Operating Fund
- ❖ Construction Fund
- ❖ Bond and Interest Redemption Fund
- ❖ Library Improvement Reserve Fund
- ❖ Contractual Service Fund

- ❖ Gifts...

(Libraries are permitted to invest excess funds)

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

Taxing I.C. § 36-12-3-12

- ❖ Tax rate is certified to auditor
- ❖ 1st published notice of public hearing at least 10 days prior to public hearing
- ❖ 2nd published notice of public hearing at least 3 days prior to public hearing
- ❖ Adopt the budget and fix the levy by Nov. 1

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

Board member expenses I.C. § 36-12-3-14

- ❖ Authorizes paying for board member expenses if board member must travel on library business

Membership Associations I.C. § 36-12-3-15

- ❖ Authorizes appropriating money for the membership of the library and employees in local, state, and national associations of a civic, educational, professional, or a governmental nature that have as their purpose the betterment and improvement of library operations

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IC § 36-12-3
CLASS 1 LIBRARIES; POWERS & DUTIES

Authorization of Disbursements and Purchases
I.C. § 36-12-3-16.5

- ❖ Authorizes payment of claims in advance of board approval for certain classifications of purchases
- ❖ Board must do a resolution
- ❖ Only classifications of expenses listed in the law are eligible
- ❖ Board reviews the claim at the next meeting.
- ❖ Reading and audio – visual materials are exempt from IC 5-22 purchasing requirements

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IC § 36-12-3 CLASS 1 LIBRARIES; POWERS & DUTIES

Electronic Funds Transfers I.C. § 36-12-3-16.5

- ❖ Authorizes the library to pay claims via electronic funds transfer. All other requirements related to payment of claims are still in place.

Collections and Claims I.C. § 36-12-3-18

- ❖ Authorizes the use of 3rd parties to collect money owed to the library

*** Board should do a resolution ***

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IC § 36-12-4 LIBRARY MERGER

- ❖ Class 1 libraries only
- ❖ Board of two or more libraries must agree initiate merger process by resolution signed by majority of the board
- ❖ Planning Committee is created (See law for plan requirements)
- ❖ Boards vote on plan (must be within 1 year of date they voted to initiate merger process)
- ❖ Both boards must agree for the merger to take effect

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IC § 36-12-5 LIBRARY EXPANSION

❖ Expansion can occur by resolution of the library and appropriate legislative body

OR

after a successful petition process

❖ Class one libraries only...

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IC § 36-12-10 LEASING OF LIBRARY PROPERTY

Municipal corporations may lease a building or buildings to be used for library facilities under the following conditions:

- ❖ Lease may not last more than 40 years
- ❖ Must have a petition signed by 50 taxpayers
- ❖ Governing body determined that a need exists for the building
- ❖ Municipal corporation cannot afford to buy a building
- ❖ Lease is with a nonprofit that was created specifically for the purpose of leasing property to the library

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IC § 36-12-11 LIBRARY CERTIFICATION BOARD

- ❖ Applies to Class 1 and Class 2 Public Libraries
- ❖ Requires the ILHB to:
 - Create certification requirements for directors, branch heads, and professional assistants
 - Issue Certificates
 - Make rules relating to certification requirements
 - 590 IAC 5 (http://iac.iga.in.gov/iac//iac_title?iact=590)
 - Certification website: <https://continuinged.isl.in.gov/certification/>

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IC § 36-12-11 LIBRARY CERTIFICATION BOARD

Sanctions / Disciplinary Actions

- ❖ Complaints must be written and submitted to ISL Director
- ❖ Investigation process is initiated
- ❖ Practitioner is notified & may defend him/herself
- ❖ Office of the Indiana Attorney General (OAG) can also investigate and, if necessary, prosecute complaints about practitioners

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IC § 36-12-11 LIBRARY CERTIFICATION BOARD

Sanctions include

- ❖ Permanent revocation of the practitioner's certificate
- ❖ Suspension of practitioner's certificate
- ❖ Censure the practitioner
- ❖ Issue a letter of reprimand
- ❖ Place the practitioner of probationary status which may be withdrawn if the board finds the deficiency has been remedied

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IC § 36-12-11 LIBRARY CERTIFICATION BOARD

Librarians may be disciplined due to any of the following:

(see complete list at IC § 36-12-11-23)

- ❖ Engaged in fraud or material deception in order to obtain certificate
- ❖ Engaged in fraud or material deception in the course of their professional activities
- ❖ Conviction of a crime that has bearing on professional services or activities
- ❖ Practitioner knowingly violated rule adopted by the board
- ❖ Continued to practice despite being unfit due to professional incompetence, failure to keep abreast of current professional practice
- ❖ Practitioner engaged in lewd or immoral conduct in connection with practitioner's practice

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IC § 36-12-12 LIBRARY CAPITAL PROJECTS FUND

Fund can be established by library for:

- ❖ Planned construction, repair, replacement, or remodeling library
- ❖ Site acquisition & development for library
- ❖ purchase, lease, or repair of equipment
- ❖ purchase, lease, upgrading, maintenance, or repair of computer hardware or software

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IC § 36-12-13 INTERSTATE LIBRARY COMPACT

- ❖ Applies to Indiana and any state bordering Indiana that joins the compact
- ❖ Authorizes entering into interstate agreements
- ❖ Provides for what needs to be included in such agreements
- ❖ Director of State Library of each participating state is compact administrator for their state
- ❖ Compact administrator receives a copy of each interstate agreement

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IC § 36-12-15 FREE USE OF PUBLIC SCHOOL LIBRARIES

- ❖ Authorizes school boards to create a public library associated with a school
- ❖ May not levy a tax for said library if the area is already taxed/served by a public library
- ❖ Provides authorization for tax if the area is not already taxed

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QUESTIONS?

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Memos & legislative reports:

<https://www.in.gov/library/services-for-libraries/law/>

Library Development Office

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Additional Resources:

<https://www.in.gov/library/services-for-libraries/>

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