

## Chapter 3

# Indiana Library Laws and Other Laws Affecting Libraries

*Indiana Public Libraries must follow all state and federal laws.*

The **Indiana Code (IC)** has a chapter dedicated to public libraries in Indiana, **IC 36-12** <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 (IAC) 590**, [www.in.gov/legislative/iac/title590.html](http://www.in.gov/legislative/iac/title590.html), which lists the public library administrative rules that libraries must follow.

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
- budgeting
- bonding
- real property
- building and fire codes

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

- Family and Medical Leave Act (required for public employers with at least 50 employees within a 75 mile radius), <http://www.dol.gov/dol/compliance/comp-fmla.htm>
- Americans with Disabilities Act, <http://www.usdoj.gov/crt/ada/adahom1.htm>
- Fair Labor Standards Act, <http://www.dol.gov/dol/compliance/comp-flsa.htm>
- Equal Employment Opportunity Act, <http://www.dol.gov/dol/compliance/comp-eeo.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 hired a lawyer to interpret Indiana law as it relates to libraries; however, each library may still want to have their own attorney and use their own attorney for the final word on legal issues.

## Indiana Open Door Law

The Open Door Law, 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. The Open Door Law will serve these purposes if the public understands the provisions of this statute.

The Handbook on Public Access sets forth the basic elements of the Open Door Law and provides answers to commonly asked questions. In order to find answers to more specific questions, please consult the provisions of the Indiana Code (IC 5-14-1.5-1 *et. seq.*).

- Public Access Counselor <http://www.in.gov/pac/>
- The Handbook on Public Access is included in this chapter or may be found on the Internet at [http://www.in.gov/pac/files/pac\\_handbook.pdf](http://www.in.gov/pac/files/pac_handbook.pdf)
- Past advisory opinions can also be found on the web at <http://www.IN.gov/pac/advisory/index.html>

The State has a Public Access Counselor, who 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

## Americans with Disabilities Act (ADA)

<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) and became effective on January 26, 1992. The ADA is landmark federal legislation that opens up services and employment opportunities to the 43 million Americans with disabilities. The law was written to strike 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 illegal 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 that prohibit discrimination against disabled persons within the United States. Titles I and II are the primary sections that affect libraries.

**Title I** Prohibits employers, including cities and towns, from discriminating against qualified job applicants and workers who are or who become disabled.

The law covers all aspects of employment including the application process and hiring, training, compensation, advancement, and any other employment term, condition, or privilege.

It requires that you provide "reasonable" accommodation to employees that may include special equipment to enable them to do their job.

**Title II** Prohibits state and local governments from discriminating against disabled persons in their programs and activities.

Title II also sets forth the applicable structural accessibility requirements for public entities.

Public libraries with non-accessible buildings may meet this requirement by providing home delivery of materials.

## ADA Home Page

Information and Technical Assistance on the Americans with Disabilities Act  
<http://www.usdoj.gov/crt/ada/adahom1.htm>

# Sales in Libraries

## I. Friends of the Library groups generally

**IC 36-12-3-5** "Real or personal property; acquisition; disposal Sec. 5. (a) The library board may: (1) acquire real or personal property by purchase, devise, lease, condemnation, or otherwise; and (2) own any real or personal property for purposes of the public library. (b) The library board may: (1) sell; (2) exchange; or (3) otherwise dispose of; real property no longer needed for library purposes in accordance with IC 36-1-11. (c) 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 (which requires a governmental unit to obtain an appraisal and hold a public hearing on the disposal of the property)."

A Friend's of the library group must be registered with the Indiana Secretary of State as a nonprofit corporation in order for the library to donate personal property to it. (Registering for tax-exempt status under Internal Revenue Code Section 501(c) (3) is part of the registration process.) A Friends group will need to apply to the Indiana Department of Revenue (IDOR) using Form BT-1 for a sales tax ID number. 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.

## II. Book sales lasting fewer than 31 days in one calendar year

Bulletin #10 (see below for link) Application of Sales Tax to Nonprofit Organizations (or Friends Group):

"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 over less than thirty-one days in a calendar year, it is exempt from 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.

## III. Book sales/Friends bookstores sales carried on more than 30 days in a calendar year

Bulletin #10 (see below for link)

"If an organization conducts sales or fund raising activities during thirty-one (31) or more days in a calendar year (not necessarily consecutive), it is a retail merchant and must {charge}, collect {and report} sales tax on all sales made during the calendar year."

Similarly, if the library was assisting the friends group with its sales, the library also would collect the tax.

## IV. Sales of merchandise by a Library

Bulletin #4 (See Link Below) Sales to and By the State of Indiana

"Sales of tangible personal property to the general public in the ordinary course of operations by the state of Indiana or its local governments are generally subject to sales tax. For example, the

sale of key chains or license cases by a license branch is taxable. The state may purchase any property to be resold exempt from tax, but must collect the tax from the purchase at the point of sale."

Libraries selling items to patrons (including but not limited to removable computer storage devices, office supplies (but not copies of public records, computer printouts or library cards)) must charge and collect sales tax.

**V. Sales Tax Bulletin #4** Sales To and By the State of Indiana, Its Political Subdivisions, the United States Government and Its Agencies

<http://www.in.gov/dor/reference/bulletins/sales/pdf/sib04.pdf>

**VI. Sales Tax Bulletin #10** Application of Sales Tax to Nonprofit Organizations

<http://www.in.gov/dor/reference/bulletins/sales/pdf/sib10.pdf>

Please check with your library's attorney, if further information is needed.

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# Policies and Plans Required by Law

Included in this chapter are the policies and plans public libraries must have in place. The Library Development Office has copies of by-laws and policies from other public libraries if you are interested in seeing sample polices. Also consult Chapter 3 Public Library Standards.

When you develop a new policy or update an old policy send the Indiana State Library a copy for the vertical file or send us the Internet address so that we may create a link to it from 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:

<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:

<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

- Reviewed at least every three (3) years

- Copy submitted to Indiana State Library

- 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

- Includes component to evaluate process each year

**Technology Plan** is the only plan or policy that is required to be approved and filed with the Indiana State Library if you are applying for the eRate discount. This plan, covering three years including the eRate budget year, must be approved in order to receive the eRate discount on Internet lines. For additional information see Chapter 11 on eRate.

### **Collection Development Policy**

### **Personnel Policy and Procedures**

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

Good 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 1-800-824-6885 for pricing.

- (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

### **Principles of Access/Circulation Policy, Including a Fines and Fees Policy**

\*see *Accounting and Uniform Compliance Guidelines Manual for Libraries*  
1-3

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

\*see *Accounting and Uniform Compliance Guidelines Manual for Libraries*  
5-4

### **Internet Acceptable Use Policy**

IC 36-12-1-12 (reviewed annually); Internet Safety Policy – Children’s Internet Protection Act (CIPA) and Neighborhood Children’s Internet Protection Act (N-CIPA) (PL 106-554), adopted after holding one public hearing or meeting. For libraries receiving the eRate discount, the policy must address the following issues:

- access by minors to inappropriate matter 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

### **Investment Policy**

IC 5-13-7-7, \*see *Accounting and Uniform Compliance Guidelines Manual for Libraries* 9-14

### **Moving and Interview Expense Policy**

See *Accounting and Uniform Compliance Guidelines Manual for Libraries* 8-4 (Could be a part of the Personnel policy)

### **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(b), see *Accounting and Uniform Compliance Guidelines Manual for Libraries* 6-4

### **Travel Policy**

See *Accounting and Uniform Compliance Guidelines Manual for Libraries* 8-3 (Could be a part of the Personnel policy)

## Personnel Policies Checklist

(Possible topics to cover)

For examples of policies and procedures see the Indiana State Personnel Department webpage <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 included 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 abuse 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
  - possession of weapons on library property
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** – can prohibit in facility
22. **Dress Code**
23. **References** — prevents employer from releasing references that will cause it to be held liable for defamation
24. **Promotion/Transfer/Job Openings**
25. **Timekeeping Requirements**
26. **Health Insurance, Health Savings Accounts, Disability Benefits Programs, Deferred Compensation, and PERF**
27. **Confidential Information**
28. **Personal Belongings**
29. **Employment of Relatives**
30. **Safety and Health**
31. **Inclement Weather/Emergencies**
32. **Telephone** (for customer satisfaction and for employees' personal calls)
33. **Internet/E-mail**
34. **Employee Examination of Personnel Files** — employer may decide whether employees may review their files or not; documents should not be removed
35. **Termination of Employment**

36. **Receipt/Acknowledgement** – helps to ensure that the employee has read the handbook

Adapted from a Barnes & Thornburg handout, 1998.

# Manuals and Publications Necessary to the management of Indiana Public Libraries

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

Reissued 2006, revised yearly, (many times 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:

<http://www.in.gov/sboa/2404.htm>

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

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

The revised edition (updated April 2008) is available online, prepared by the Office of the Attorney General and Office of the Public Access Counselor. The new public access counselor, Heather Neal, revised the handbook.

Request copies from the Public Access Counselor, W074, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204 or print from the web:

[http://www.in.gov/pac/files/pac\\_handbook.pdf](http://www.in.gov/pac/files/pac_handbook.pdf)

## **3. Indiana Library Resource Sharing Manual\*** 1997

<http://www.in.gov/library/3288.htm>

See Chapter 8 for Interlibrary Loan and Public Library Access Card Program.

## **4. Indiana Public Library Directory 2008**

Revisions as needed

<http://www.in.gov/library/files/08dir2col0324.pdf>

## **5. IN The Public Trust: A Reference Manual for Indiana Public Library Board Members**

1993 (Trustee Manual), including revisions for 2007

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

<http://www.in.gov/library/3274.htm>

## **6. Library Budget Manual...a Guide Through the Process of Local Government Budgeting**

To purchase the manual, send a request in writing to the attention of Linette Pedigo, Department of Local Government Finance, 100 N. Senate Ave, N-1058(B), Indianapolis, IN 46204. Please enclose a check made payable to the Department of Local Government Finance in the amount of thirteen dollars (\$13.00). You can pick up the manual directly from DLGF office for ten dollars (\$10.00) by calling Linette Pedigo at (317) 234-5592.

<http://www.in.gov/dlqf/4843.htm>

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

The compilation of laws is updated through 2008. See Chapter 4 in this manual. An online edition of Indiana Library Laws can be found on the following webpage:

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

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

New edition yearly and available on-line only at:

<http://www.in.gov/library/plstats.htm>