

**Handbook of Best Practices
for
Alabama Public Library
Boards of Trustees**

Alabama Public Library Service (APLS)

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2013

Introduction

This handbook is prepared as a guide for the trustees of Alabama's public libraries. Sincere appreciation is expressed to the staff of the Alabama Public Library Service and to the librarians and lay leaders who worked on its content and preparation.

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CHAPTER 1

WHAT AM I SUPPOSED TO DO?

- i) ***When we are approached about accepting a position on a committee or board, our first comment is often "What do I have to do?". Sometimes the question is asked to insure that we do not take on more than we can handle. At other times, the question may reflect our true ignorance about what is involved. Regardless of your interest in serving as a trustee of your local library, you may not be certain of what is expected of you - or needed from you. The purpose of this handbook is to give you an introduction to public library matters. This handbook will not provide all of the answers, particularly about your local public library. However, it should help you to better understand the questions and the issues with which you will be involved as a trustee.***

Before discussing your specific duties and responsibilities, we will give a brief introduction to library laws. You probably are serving on the board of an established library and might not be involved in establishing a library. However, the law does give important information as to how boards are appointed and about their responsibilities. The law also discusses options for jointly funded library service, which might be of benefit to your community now - or in the future. Across the state, questions are regularly raised regarding how library boards should proceed on given issues. These issues might relate to relations between the library board and its appointing authority, questions as to who supervises library employees, inquiries as to the authority of a library board to own property, or questions as to how improved benefits can be provided to library employees. The Attorney General is responsible for answering such questions, by interpreting the intent of the law. Opinions of the Attorney General regarding public libraries will be cited in an attempt to answer questions that may arise in your library.

How do we select officers on the library board?

It is important that your library board functions in an efficient, responsible, and legal manner. We will devote a brief chapter to board bylaws which provide the ground rules and instructions for your board's decision-making process. Your board may not have taken the time to develop a set of bylaws. Even for a long

established library board, putting down on paper its operating rules can be a valuable effort. Written board bylaws are required to qualify for State Aid. If your board's bylaws were written over five years ago, they need to be reviewed. Do they reflect the manner in which the board regularly conducts its business? If not, it is time to amend your bylaws.

As with other documents that will be mentioned, this handbook provides a sample set of bylaws and a sample meeting agenda (see Appendix One). The guides and samples are included in the Appendix section at the end of the handbook. Many of these documents will require some customizing to meet the specific needs of your library and its community.

Everyone else seems to understand what is being discussed.

One of the most important tasks of any trustee of any organization is to understand the organization and its business. As a newly appointed trustee, you have a golden opportunity to ask questions. If you are a long-serving trustee, there will be new topics that you do not readily understand. If it has been years since the board reviewed policies and procedures, questions are probably in order.

There are basic questions that every trustee should be able to answer fully. This information should be freely available to all trustees, particularly since they are legally responsible for the library's operation. Many times trustees cannot answer basic questions about their library's operation. These questions might include:

- Where does the library get its operating funds?
- Who prepares the budget and how is it presented?
- Does the library qualify for any State or Federal funds?
- How many employees does the library have?
- Does the library use volunteers?
- Do we have job descriptions for our employees?
- Who sets pay scales?

- Are library employees' salaries comparable to those of other city or county employees?
- How much do we pay the Director? How much would we have to pay to replace the Director?
- What qualifications should the Director have?
- Do library employees have the same health insurance as other city or county employees?
- Can library employees participate in the State Retirement System?
- We have needed a new library for years. Are we working to solve this problem?
- How many books does the library own and how does that compare with other libraries?
- What percentage of our budget do we spend for library materials?
- How do we select books and other materials for our collection?
- What happens if someone doesn't like the books we have selected?
- Do we have an Internet use policy?
- Do we filter Internet use for children?
- Is our building properly maintained?
- Are our financial records audited on a regular basis?
- What are LSTA and APLS?

That last question brings up another topic. Like all professions, librarianship has its own private language. The professional literature, a representative from the Alabama Public Library Service, and your library director may seem to speak in an unknown tongue. Usually the strange words are actually acronyms for terms or agencies. APLS is the Alabama Public Library Service and it is located in Montgomery. LSTA is the Library Services and Technology Act through which most Federal funds for public libraries are provided. Common acronyms are identified throughout the handbook.

Only after we were sued did I know that we did not have a staff policy manual; or so that's why a policy manual is needed.

Policies are the decisions as to how the library will handle particular situations. Policies are best made before the situations develop. The best time to develop a policy regarding nondiscriminatory employment is before you are sued. As a trustee of an institution that is funded by tax dollars and that attempts to meet the varying needs and desires of the general public, some of your decisions will be called into question. Most often the questions will arise not in response to your personal actions but in response to how the library of which you are a trustee operates.

Most policy problems for library boards center around personnel policies and Intellectual Freedom. Questions regarding personnel policies are generally raised by either job applicants who feel that they have been discriminated against in hiring or employees who feel that they have been unfairly (or unequally) dealt with in some employment situation (i.e. promotion, pay, benefits, etc.).

Questions regarding Intellectual Freedom often will not use this phrase. Some citizens will complain that the library has used public funds to favor conservative causes. Others will complain that the library has used public funds to favor liberal causes. These patrons will be complaining about the same "political" or "economic" section of your collection. Some will complain that the library encourages pornography. Others will complain that the library does not adequately cover the arts. These patrons will be complaining about the same "art" section of your collection. Some will complain that you house material on the devil. Others will complain that you do not have material on angels. These patrons will be complaining about the same "philosophy" or "religion" section of your collection. In attempting to fairly represent all views, there is a very thin line between pleasing everyone and angering everyone.

Because personnel and Intellectual Freedom are such important (and difficult) issues, this handbook will devote sections to the policies needed in these areas. In addition, a section will deal with general policies needed by every library (i.e. the homeless, unattended children, gifts, open meetings, etc.).

Who runs the library?

The trustees are responsible for determining how the library will be operated, for setting policies, for fund-raising, and for employing a director. Running the library on a day-to-day basis is not their job, nor should they attempt it. Conflicts between the director and the board (or more often a board member) are common. Such conflicts often are the result of a misunderstanding over job responsibilities. It isn't the director's job to set policy, although the director's input is crucial. It isn't the board's job to run the library, although it must be operated under their guidelines and policies. This handbook will attempt to clarify the conflicting and supporting roles of the library board and the director.

Where can I learn more about my job as a trustee?

There are many sources of information, training, and just plain encouragement. This handbook includes information regarding publications and organizations that might make your job easier. Many of the resources will be available at your local library, on the Internet, or by loan from the Alabama Public Library Service (APLS). Organizations of interest vary from local groups to national associations.

Many of the same meetings that will help your director will be of value to you as a trustee. **United for Libraries*** is a division of the American Library Association. The **Alabama Library Association** has a Public Library Division, which incorporates trustees in its membership. During its meeting each April, programs are offered to benefit public librarians and trustees. The Alabama Public Library Service (APLS) offers books and other materials for trustees and provides training and continuing education opportunities for trustees. Books may be borrowed through interlibrary loan requests.

***United for Libraries** (previously Association of Library Trustees, Advocates, Friends, and Foundations), national umbrella organization for Boards of Trustees, Friends Groups, Library Foundations and their administrators.

What does APLS do for my local library?

This is a good question and it provides the opportunity to give you a look at the statewide operation of public libraries. APLS provides direct services to libraries, as well as serves as the conduit for the distribution of State and Federal funds. [**IMPORTANT**: With the enactment of the Alabama Immigration Law in 2011, public libraries must be E-Verified in order to receive State and Federal funds (see Appendix Two)]. APLS is also charged with the responsibility of gathering statistical and service information regarding Alabama's public libraries. With such information, the agency is responsible for developing long-range plans for service, automation, training, etc. Chapter Seven provides detailed information on this important agency and the services it provides to your library.

CHAPTER 2

HOW IS A PUBLIC LIBRARY ESTABLISHED IN ALABAMA?

In Alabama, all public libraries and public library systems are agencies of local government. Local government (whether county commission or any of the various forms of municipal structure) may establish and fund its own public library, may jointly establish and jointly fund a public library with another local government body, and may contract for varying types of library service from another jurisdiction's library. In all such transactions, the agency responsible for overseeing the library is the library board.

Chapter 90, "Free Public Libraries", §11-90-1 to §11-90-4 of the *Code of Alabama, 1975.*

The legal authority for the establishment and operation of public libraries is generally found in Chapter 90, "Free Public Libraries", §11-90-1 to §11-90-4 of the *Code of Alabama, 1975*. The law also provides for the creation of "Public Library Authorities" (Chapter 57, §11-57-1 to §11-57-26). Such authorities are separately incorporated entities with the right to hold property, issue bonds, etc. There are also examples of special legislation to meet a particular situation. For example, the North Shelby Library serves a "library district" and is supported by mandatory taxes calculated like an *ad valorem* tax. Such a district is organized much like a "fire district". Such library districts are common in other states but have not been widely utilized in Alabama. Noting that some exceptions exist, most attention will be given to the provisions of §11-90-1 to §11-90-4 (see Appendix Three).

The enabling legislation is broadly worded and provides for considerable variation in how a local library is organized and functions. While such vagueness can be frustrating and confusing, the flexibility has generally enabled communities to have the type of structure that works best for them.

Because much of the enabling legislation is indefinite, there often arises a question as to what actually was intended - or what is allowed. It is the role of the Attorney General to provide interpretation and application of the law. These "opinions" are very important in that they provide direction and opinion upon which municipalities (and the agencies thereof) may rely in making decisions. It is worth noting that any library board may seek an Attorney General's Opinion

regarding any issue that seems unclear. The library board may request an Attorney General's Opinion through its county or municipal attorney or refer the matter to the Alabama Public Library Service (APLS). An Assistant Attorney General is assigned to work with APLS so going through the agency may get a more timely response. Also, questions of concern to one library board are often of importance to another. By involving APLS in the process, all library boards can be made aware of opinions that may impact their actions.

How is a public library established?

§11-90-1. Powers of counties and municipalities as to establishment and maintenance of free public libraries.

This section provides the authority and maintenance of a public library. County commissions and the governing bodies of municipalities may establish a library by appointing a library board and forwarding an establishment resolution to the Alabama Public Library Service. Authority is given to any such body to establish a library and (a very important provision) to fund "free public libraries". Too often local officials forget that the word "free" refers to the type of service provided to the public, not to the cost of the operation. In addition to being authorized to provide funds from the public treasury, gifts and funds for the support of the library are authorized from any legitimate source. The actual library operation is placed in the hands of that all-important body of citizens - the Library Board.

How is a library board appointed?

§11-90-2. Library boards - Composition; appointment and terms of members; vacancies in office.

Library boards created under Section 11-90-2, and appointed by a single county or municipality, are authorized to have five members. There are library boards that predate this law and have more members. None has less than five. Where such a library board has more than five members, the Attorney General has ruled that the appointing authority may reduce the number to five.¹

¹

Attorney General's Opinion of March 30, 1990 to Carl Allen, Mayor, Stevenson, Alabama.

Library board members serve without compensation. However, they are entitled to the reimbursements of expenses incurred while carrying out their duties as a library board member. There is no prohibition to their expenses being paid to attend state, regional, or national meetings on behalf of the library board.

The process for selecting and appointing board members is vague, and this has been more helpful than not. Generally, the appointing authority (whether county commission or governing body of a municipality) has the power to appoint anyone they choose. There is no residency requirement although appointing authorities may have such requirements.² The appointing authority may appoint its own members to the library board.³ However, they are appointed as individuals – not by virtue of their office. Hence, an individual board member is not automatically replaced by his successor in political office.

Although the library board may not be a self-perpetuating organization by appointing its own members, the library board should take great interest in who is appointed. In many communities the appointing authority asks the library board to submit names or to suggest new members. Such a request indicates a close and trusted relationship, but the appointing authority must make the actual appointment.

Do boards have advisory members?

Many boards have "advisory members", such as the President of the Friends. Such advisory members may be very valuable and provide needed visibility in the community. However, they are not legal members - unless they are actually appointed in their own names.

² Ibid. and Attorney General's Opinion of September 1, 1977 to A. J. Cooper, Jr., Mayor, Prichard, Alabama.

³ Attorney General's Opinion of January 15, 1980 to Anthony W. Miele, Director, Alabama Public Library Service.

How long do trustees serve on a library board?

The *Code of Alabama* provides that the initial members of a library board shall be appointed for staggered terms in order to provide continuity. Initial members are to be appointed in the following manner:

- one member for a term of one year;
- one member for a term of two years;
- one member for a term of three years;
- two members for terms of four years.

After each initial term all subsequent terms are for four years. The appointing authority has the power to fill "all vacancies, including expired and unexpired terms".

The law is silent in regards to how often an individual member may be appointed, or how long they may serve. As with any voluntary organization, mandatory term limits may remove valuable members as often as they replace non-productive ones. Most communities have found value in the long-term service of library board members. However, either by virtue of the appointing authority's policy or under the board's own bylaws, there should be some provision to involve new people on the library board.

What qualifications and attributes are needed by library trustees?

The Virginia Public Library Trustee Handbook has an excellent section on the qualifications of trustees. Its observations are worth repeating:

"Each trustee brings to the board certain strengths, skills, talents, and personal experience that uniquely serve the library. The Board should represent a broad spectrum of community interests, occupations, and geographic areas. Such diversity assures that the library will serve the total community."

"It is impossible to represent all of the divergent interests of the service area on the board at the same time, but over a period of years the representation should rotate to include as many segments of the population as possible. A well-balanced board can bring in less-experienced members who will provide new viewpoints."

"Competencies necessary to fulfill board duties should also be present in the overall composition of the board. Collectively, the board should strive to have:

- rapport with the entire community;
- occupational diversity;
- political acumen and influence;
- business management/financial experience;
- legal knowledge;
- diversity of age, race, and sex;
- varied personal backgrounds."

"Appointing authorities and individual candidates should be given a written statement of the duties and responsibilities of membership on the library board. An interested potential board member should not accept if lack of time or other commitments prevent full participation."

"Effective trustees are citizens who have: interest in the library and the community; time to devote to board responsibilities; awareness of the library's role in the community as a center of information, culture, recreation, and lifelong learning; knowledge of the community and its diversity; ability to think and plan creatively, to question objectively, and to carry out plans effectively; skill in establishing policies for effective and efficient operation of the library; sound judgment, a sense of fiscal responsibility, and political awareness; willingness to represent the library at meetings and public functions; good communication skills; the ability to relate to the public; and interest in working with local, state, and national library leaders and trustees to improve library service on all levels."⁴

⁴

Virginia Public Library Trustee Handbook. [<http://www.lva.virginia.gov/lib-edu/ldnd/trustee/>] Pp.4-5.

Can a board member be removed?

Because the appointment of a library board member has important implications, such a member may not easily be removed. The board's bylaws may state that any member missing a certain number of meetings will be replaced, but such action may cause considerable community fallout. The Attorney General has stated that:

"It appears that a member of the Library Board may be removed before their term is ended only when the Board member is not acting in the best interest of the citizens of the county in connection with their public library."⁵

This carefully worded statement does nothing to define what constitutes action worthy of such removal.

The Attorney General has ruled on several occasions that the appointing authority may not simply abolish an existing library board. On some occasions the appointing authority has decided that the community would be better served by having the library operated without the intervention of a library board, for example, as a city department. The appointing authority may not abolish its library board and continue to operate a public library.⁶ In addition, a Mayor, on their own, may not remove board members.⁷

⁵ Attorney General's Opinion of April 2, 1975 to F. Gillis Doughtie, Director, Montgomery City-County Public Library.

⁶ Attorney General's Opinion of May 6, 1994 to Patricia L. Harris, Director, Alabama Public Library Service.

⁷ Attorney General's Opinion of March 18, 1985 to Anthony W. Miele, Director, Alabama Public Library Service.

What are the responsibilities of a library board?

§11-90-3. Library boards - Powers and duties

As indicated by the above-mentioned laws and the opinions of the Attorneys General, the library board is responsible for library operations. The board is granted full power and authority to:

- Control the expenditure of all funds received or appropriated for the library;
- Erect or rent buildings, to cost not in excess of the funds available to it;
- Purchase books and equipment;
- Provide a system of library service to be made easily available to all citizens of the county or municipality through central library branches, stations, book truck service or other appropriate means;
- Elect a librarian and other employees; and
- Manage and control the said library in order to carry out the full intent and purpose of this chapter [on public library establishment and operation].

For the purpose of providing a legal and public record of its actions:

- A careful and complete record and set of books shall be kept by the library board, showing the proceedings of their several meetings and the receipts and disbursements in detail of all funds, should be available for audit for the current year and seven preceding years.

How does the library board work with local government officials?

It sounds as if the library board is in complete control. And it is up until the point about "cost not in excess of the funds available to it". It is at this point that the library director, library board, and appointing authority often have to discuss reality. The reality is that very few public libraries have their own money. (An exception would be a "library district" and in such a case there is no appointing authority. Instead, a library board is elected by residents of the district.)

Public library boards do not own their own buildings or real estate. The *Code of Alabama* makes no mention of the authority of a library board to hold property, and the Attorney General has ruled that such property should be held by the city or county that created the local library.⁸ The Attorney General has ruled that a library board may raise funds on its own and keep them in a separate bank account from appropriated funds.⁹ Such a question often arises when a library board sets up a separate "building fund" or other special purpose account. It should be stated again that these comments relate to library boards established by a single county or municipality. It should also be observed that the inability of a public library to own property (buildings, real estate, securities, etc.) is a major factor in the establishment of separately incorporated Foundations and/or Friends organizations, which will be discussed in Chapter Six of this handbook.

In the real world, the library board must often work very closely with its appointing city or county. If government officials provide the majority of funding for a new building (as they almost certainly will), it is unrealistic to think that they will have no say in where the building is constructed, what features will be included, how many staff members will be required, etc. Or (to point out a positive aspect of such close relationships), if a city or county pays a clerk a certain salary, should it not be willing to pay a similarly employed clerk at the library the same salary? Likewise, county or city attorneys, building inspectors, and maintenance workers may provide valuable service to the library board at little or no cost.

In recent years, certain duties have passed to city or county authorities. The functions mandate more uniform policies among all employees. While the concern of the city or county was often to protect itself from litigation, the impact on library employees has generally been positive. Likewise, the consolidation of financial operations has taken many of the day-to-day activities (i.e. check writing, account posting, account reconciliation) out of the library.

⁸ Attorney General's Opinion of September 15, 1981 to Claire Ramsey, President, Washington County Library & Attorney General's Opinion of March 15, 1999 to Harold L. Crouch, Mayor, Chatom, Alabama.

⁹ Attorney General's Opinion of May 31, 1978 to J. Channell, Millbrook Public Library.

In this changing scenario, many library boards find themselves in situations not sanctioned, or explained, by state law. Increasingly, library services are seen as vital functions of a county or municipal government. With its increased importance it is only natural that the library would be brought closer into the daily operations of other government agencies. Often the library director is actually responsible on a day-to-day basis to a county or city manager. While this *de facto* situation may create an awkward working relationship, it is usually an acknowledgment of the importance of the library to the community – and has usually resulted in the library being included more in community planning and funding.

Regardless of the day-to-day relationships, it is very important that the library board remain closely associated with library operations. No other single group should be more familiar with library policies and operations, or more concerned about the quality of library services provided to the community.

Questions about the library board's employees

For most of their existence, employees of the library were not paid salaries comparable to those paid for similar jobs in other areas of city or county employment. Many officials used the excuse that library employees were not civil service employees, even though they were paid from the same public treasury for the same type of job. Many library boards feared the loss of control over the hiring and assignment of their employees.

The following examples of Attorney General opinions may assist an individual library board in considering how its employees relate to its city or county government.

- Library employees may be included in a government's group hospital plan.¹⁰
- Library employees may participate in the Alabama State Employees Retirement System.¹¹

¹⁰ Attorney General's Opinion of June 9, 1977 to Patrick Tate, County Attorney, DeKalb County Commission.

¹¹ Attorney General's Opinion of July 11, 1979 to City Council, Graysville, Alabama.

- Employees of a library board are part of the municipality's personnel, if the library is not a legal entity separate from the municipality and if the personnel system does not specifically exclude library employees.¹²
- Library employees are supervised by the library board but they are also city employees subject to city personnel policies.¹³
- A library board has the authority to elect and supervise the Library Director and other library employees who are also city employees subject to city personnel policies.¹⁴

What is joint library service?

§11-90-4. Establishment and maintenance of joint library service

The *Code of Alabama* also provides that any county or municipal library board may contract with any other library board to provide joint library service. Where there is no library board, the county commission or municipal government may contract for service with a library board. The Attorney General has also issued an Opinion that public school systems may contract with public library boards for the providing of library services to the school system.¹⁵

Those reading this handbook are probably already trustees - meaning that a library board has been appointed. For existing library boards, it is good to remember that contracted service can be extended to political areas without library service. Expanding the service area, and economic base, for an existing library may provide for much better service than would the establishment of an additional facility.

¹² Attorney General's Opinion of July 30, 1981 to Jean Hester, Board Chairman, Millbrook Public Library.

¹³ Attorney General's Opinion of July 5, 1991 to Blane K. Dessy, Director, Alabama Public Library Service.

¹⁴ Attorney General's Opinion of May 28, 1993 to Patricia Harris, Director, Alabama Public Library Service.

¹⁵ Attorney General's Opinion of September 1, 1976 to Bill Sumners, Director, Shelby County Library.

This section of the *Code of Alabama* also endows the library board with the power to “cooperate with all state and federal agencies and institutions in furtherance of the providing of free public library service”. Various public library boards have found opportunities to provide jointly supported library service through cooperation with military installations, school districts, mental health agencies, community colleges, etc. There are also guidelines for the establishment of jointly funded library service across state lines.¹⁶ The law has given broad power to the local library board to develop whatever type of library service will best serve its community.

Obviously, there are sound reasons for considering such jointly funded service. The central costs of administration, technical services, bookmobiles, delivery vans, and other services can be spread between local and state funding agencies. Shared collections, or a shared computer system, may be a part of such a contract. The *Code of Alabama* allows the contracting parties to design the cooperative agreement that works best for their communities. The contract may simply call for the sharing of certain administrative services. Or, the contract may provide for a totally unified system in which political and service boundaries are essentially invisible to library users. It is most important that the mutual understandings regarding any shared services be actually committed to paper. The basis for any joint service should be a written contract approved by all participating parties. The contract should include the following components:

- A detailed listing of what services will be provided by which party;
- A specific statement of how funding will be provided (how much, from which party, when, etc.), and how ongoing costs will be reviewed or allocated;
- A specific description of any joint administrative board;
- A specific statement of who is in charge on a daily basis;
- A specific statement as to the ownership of any property acquired by the joint operation (books, buildings, equipment, databases, etc.), and a statement of what will happen to such property at the end of the contract;
- A date at which time the contract will be reviewed and revised, or cancelled.

¹⁶ “Guidelines for the Development and Approval of Agreements to Provide Library Service Across State Lines” was developed by APLS and approved in an Attorney General's Opinion dated March 25, 1980.

What are the reporting requirements of the library board?

Within the final segment of the *Code of Alabama* is the requirement that local library boards must provide reasonable reports and cooperate in a reasonable manner with the Alabama Public Library Service (APLS). Essentially APLS is empowered to request information and statistics necessary for it to develop long-range plans of service, and to comply with the requirements of various funding agencies. In addition to annual statistical reports, library boards are required to provide the specific information requested by funding agencies. If a library board accepts State Aid funds, there are reporting requirements attached to that appropriation. If a library board accepts Federal funds (LSTA, etc.), the sponsoring agency will require specific reports. Generally, if a library board accepts funds from any outside agency, there may be a requirement that an outside auditor review financial records. Such reports and audits are required to insure that funds were legally spent **and** (this is equally important) that they were spent for the purposes approved under the grant.

Regardless of any additional reporting requirements, the *Code of Alabama* requires that: "A careful and complete record and set of books shall be kept by the library board, showing the proceedings of their several meetings and the receipts and disbursements in detail of all funds". There are specific requirements for municipal and county records. The board should follow the requirements established for its funding authority. Regardless of retention requirements, board minutes should be preserved permanently.

How does the Alabama Ethics Law affect library boards?

The Alabama Ethics Law (§36-25-1 to §36-25-30 of the *Code of Alabama, 1975*) was revised in 2010. All public officials and public employees must be in compliance with the Law (see definitions below). The Alabama Ethics Commission has issued guidelines for proper compliance (see Appendix Four).

A **Public Official** is defined as:

"Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-13-40."¹⁷

A **Public Employee** is defined as:

"Any person employed at the state, county, or municipal level of government or their instrumentalities... For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

¹⁷ Section 17-13-40 "Political party" defined.

An assemblage or organization of electors which, at the general election for state and county officers then next preceding the primary, casts more than 20 percent of the entire vote cast in any county is hereby declared to be a political party within the meaning of this chapter within such county; and an assemblage or organization of electors which, at the general election for state officers then next preceding the primary, casts more than 20 percent of the entire vote cast in the state is hereby declared to be a political party within the meaning of this chapter for such state.

(Acts 1975, No. 1196, p. 2349, §2; §17-16-2; amended and renumbered by Act 2006-570, p. 1331, §61.)

CHAPTER 3

ORGANIZING THE LIBRARY BOARD FOR WORK

Members of a library board are generally known simply as "board members". The American Library Association, the Alabama Library Association, and the Alabama Public Library Service identify them as "trustees". Whatever it is called locally, the library board is perhaps the single most important factor in determining the quality of library service that a community will receive.

The board's duties are loosely defined in the *Code of Alabama*. The board controls the funds, secures a building for the library, purchases library materials, determines how library service can best be provided to the community, hires the librarian, oversees the library's operation, and maintains complete and legal records of its policies, actions, and expenditures.

Each phrase in this general description involves planning and organization. The library board should be:

- The community's *agent* for determining what services are needed and what they will cost;
- The community's *voice* in presenting those financial needs to funding authorities;
- The community's *advocate* in securing an adequate building; and
- The community's *communicator* in making public all of its financial dealings and policy decisions.

"Hiring the librarian" does not adequately describe the board's responsibility for personnel. The choice of a librarian, or director, may be the single most important decision that the board makes. Once that person is employed, there should be no need for the board to oversee day-to-day staff operations. (Such micro-management often results in unnecessary conflict between board members and committed staff.) However, the board does need to work continuously to see that properly qualified staff is hired, that pay scales are comparable to similar jobs in the community and in the state, that nondiscriminatory policies are enforced, and that staff is treated fairly. The development of such policies and procedures is difficult, time consuming, and absolutely necessary.

Bylaws

In order to carry out its important and difficult tasks the library board needs to be organized. Because it is responsible for the business-like operation of the library, the library board should conduct itself in a business-like manner.

The first step in achieving an orderly operation is the development of bylaws. The bylaws are the statements and guidelines that guide the organization's leaders. Bylaws can prevent many misunderstandings by stating clearly in advance what is expected and how business will be conducted. Bylaws are not a legal document in the sense of "Articles of Incorporation" or local law. They cannot be inconsistent with state or local laws regarding the library and its operation. Rather than conflict, the bylaws should enforce those laws and explain how those laws are translated into day-to-day operations.

Generally, bylaws should contain at least the following features:

Article I

- Citations to the law and legal actions under which the library and its board are created;
- Number of members on the board;
- How members are appointed;
- Term of office for members;
- Any limitation on term of service;
- Conditions under which a member will be replaced before end of term;
- Method of replacing members.

Article II

- Where and when regular meetings will be held;
- Establish policy that meetings will be open to public, as required by the Open Meetings Act (i.e. "Sunshine Law") (see Appendix Five);
- Number required for a quorum;
- Establish the parliamentary authority, such as *Robert's Rules of Order*;
- How and when the annual election of officers will be held;

- Under what circumstances a special meeting may be called, and by whom.

Article III

- Listing of officers: Chairperson or President, Vice Chair or Vice President, Treasurer, Secretary (often the Library Director serves in this capacity);
- Duties of officers;
- Duties of committees;
- Duties of individual board members.

Article IV

- Necessary qualifications of the Librarian (Library Director);
- Method of selection and appointment;
- Responsibilities of Librarian;

Article V

- How the organization's bylaws will be adopted;
- How the bylaws may be amended.

Article VI

- Listing of items that should be included in a meeting's regular order of business:
 - Roll call of members and statement of others present;
 - Approval of minutes of previous meeting;
 - Financial report and approval of financial actions;
 - Approval of personnel actions;
 - Report of library operations;
 - Committee reports;
 - Unfinished business;
 - New business;
 - Adjournment.

Article VII

- Date of adoption.

The purpose of the bylaws is to provide a comforting uniformity to the library board's deliberations and actions. Bylaws should not be used to stifle discussion or simply to maintain the *status quo*. The library board should feel free to amend them whenever necessary.

CHAPTER 4

POLICIES – IMPORTANT DECISIONS

The development of clear and concise policies is very important. The alternative to having clearly defined and stated policies is to spend endless hours debating the same subjects. The natural result of absent, or weak, policies is inconsistent action. Inconsistency leaves any organization open to criticism and possible legal action. The time spent in developing sound and fair policies will be repaid many times over.

Why are formal policies needed?

Policies are needed for any operational question that may arise. The board's bylaws contain some very basic policy statements, such as how many board members are required for a quorum. It would be foolish for the board to regularly debate whether or not enough members were present to conduct business. Instead, the board adopts a policy that three (for example) members must be present in order to conduct business. The question is answered in advance and there is never any suspicion that a certain number was agreed upon to meet a particular situation.

In the same way, policies are needed to clearly state the board's position on critical issues. To avoid any question of unfairness, policies are better developed before the actual need arises.

What policies are needed?

Basically, two groups of policies are needed:

- Policies relating to the library's internal operations;
- Policies relating to the library's relationship with its community and patrons.

Policies relating to the library's internal operations could include:

• Board of Trustees:

- Advance announcement of meetings, as required by the Open Meetings Act (i.e. "Sunshine Law") (see Appendix Five);
- Advisory members (President of Friends, community representatives);
- Election of officers, terms, etc. (usually covered by bylaws);
- Liability and insurance issues;¹⁸
- Maintenance of permanent minutes and records;
- Meetings open to the press and public.

• Financial:

- Audit requirements
- Authority to spend funds;
- Budget process (who develops budget, when, to whom presented?);
- Gifts;
- Reporting requirements;
- Sources of funding.

¹⁸ §10-11-2 of the *Code of Alabama* states that "any board, authority or commission the members of which are appointed by the governing body or bodies of any county or municipality. . ." and any uncompensated officer of such an entity "must be permitted to operate without undue concern for the possibility of litigation arising from the discharge of their duties as policymakers". Continuing, §10-11-3 states, "Any non-compensated officer of a qualified entity shall be immune from suit and not subject to civil liability arising from the conduct of the affairs of such qualified entity. . . ." This law should protect board members from most legal complications. However, the law specifically does not apply to staff. Regularly county and municipal agencies are sued for such things as negligent building conditions and discriminatory employment practices. While the law should give some comfort to trustees, it would be wise to consult an attorney on specific liability questions. It should also be determined whether or not the county or municipality attorney would represent the interests of the library board and trustees in the event of legal action.

● **Personnel:**

- Chain of authority;
- Continuing education opportunities;
- Disciplinary process;
- Evaluation process;
- Grievance procedures;
- Health insurance (full-time employees only? paid by library?);
- Job descriptions, including minimum requirements;
- Leave policies - vacation, sick, maternity (consistent with that provided for other public employees);
- Nondiscriminatory employment practices;
- Pension plan (full-time employees only? paid by library?);
- Sexual harassment policy;
- Uniform pay scale;
- Use of volunteers.

- **Safety and Security:**

- Access to special collections;
- Insurance of buildings and collections;
- Keys to buildings;
- Security checks;¹⁹
- Smoking.

¹⁹ The Attorney General has issued an Opinion that a public library "may establish a policy of inspecting personal bags or briefcases as patrons leave if: (1) patrons have adequate notice and an expectation of the search, (2) permission for the search is requested, (3) patrons are informed that they are free to leave before using the library if they do not wish to consent to the search or that they may check their bags or briefcases at the library's desk, (4) the search is visual only and individual conducting the search does not touch the patron's property, and (5) the search is not done by police officers and is not done for the purpose of gathering evidence for a criminal prosecution. . . In lieu of having a policy of searching personal bags and briefcases as patrons depart the library, may wish to establish a policy of requiring all patrons to check all bags, backpacks, briefcases, etc. in a secure place at the front desk upon entering the library to use its services". Opinion of October 31, 1996 to Patricia L. Harris, Director, Alabama Public Library Service.

Policies relating to the library's relationship with its community and patrons could include:

• Accessibility of Service:

- Acceptable behavior;
- Compliance with Americans with Disabilities Act (ADA) regulations;²⁰
- Days and hours of operation;
- Service fees charged to others;
- Special services for those with special needs;
- Unattended children;
- Who is eligible for free service.

• Adjunct Organizations:

- Foundations;
- Friends of the Library;
- Staff and labor organizations.

²⁰ On March 15, 2012, compliance with the 2010 ADA Standards for Accessible Design became effective for new construction and alterations.
[<http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>]

● Making Materials Available and Intellectual Freedom:

- Acceptable Internet use and procedures;²¹
- Access to materials by minors;
- Adoption of the "**Library Bill of Rights**", "**Freedom to Read**", and "**Freedom to View**" as official policy (see Appendices Eight through Ten);
- Fines for overdue, lost, or damaged materials;
- Interlibrary Loan (borrowing materials from other libraries for your patrons);
- Loan periods for various types of materials;
- Materials, by type (i.e. reference books) that may not be borrowed;
- Overdue notices;
- Privacy of circulation records;²²
- Reserving materials.

²¹ See Appendix Ten for a copy of the American Library Association's "Guidelines and Considerations for Developing a Public Library Internet Use Policy" and Appendix Eleven for a sample Internet policy developed by an Alabama public library. Also see Mark Smith's *Internet Policy Handbook for Libraries*.

²² See Appendix Twelve for a copy of the American Library Association's "Policy on Confidentiality of Library Records" and Appendix Thirteen for a copy of the American Library Association's "Suggested Procedures For Implementing 'Policy On Confidentiality of Library Records'." Following the September 11, 2001 terrorist attacks, the USA Patriot Act was enacted in an effort to arm law enforcement with new tools to detect and prevent terrorism. See Appendix Fourteen for the portion of the Act that pertains to accessing library records. §41-8-10 of the *Code of Alabama* recognizes the confidential nature of an individual's use of a public library and expressly prohibits the disclosure of circulation records (what items has a particular patron borrowed or which patrons have borrowed a particular item). There are three exceptions to the general prohibition on the disclosure of registration and circulation records. The entities that may inspect these records are: (1) the library that manages the records (2) the State Library; and (3) the parents of a minor child using the library. Any other disclosure requires an appropriate legal order, or the library (staff, board, etc.) will be in violation of the law. An Attorney General's Opinion of March 6, 1995 to Patricia Harris, Director, Alabama Public Library Service, further stated that a public library may not contract with a collection agency to aid in the recovery of overdue materials if such contract requires the disclosure of specific circulation records. A library may disclose to a collection agency the library user's name, address, and the dollar value of the overdue materials. As a general rule, circulation records should not be retained longer than the time required to process the loan and return of library material. It is imperative that all staff members are aware of this policy.

- **Outreach or Expanded Service:**

- Bookmobiles;
- Branch libraries;
- Criteria for selecting service locations;
- Deposit collections;
- Eligibility to receive service;
- Fees for use of meeting rooms;
- Food and beverage (including alcohol) policy;
- Reservation procedures for meeting rooms;
- Scope of service to be provided;
- Use of library equipment;
- Use of meeting rooms for non-library purposes.

- **Reference and Research Assistance:**

- Eligibility to receive reference service (non-residents, out-of-town businesses);
- Fax reference service;
- Fees;
- Internet reference service;
- Photocopying;²³
- Telephone reference service.

²³ The board should establish itself as being in compliance with U.S. copyright laws (Title 17, *U.S. Code*). Signs should be posted near copy machines with a basic copyright compliance statement such as: "NOTICE: The copyright law of the United States (Title 17, *U.S. Code*) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement".

● **Selection of Materials:**

- Commitment to Intellectual Freedom;
- Emphasis and limitations of collection (i.e. special collections);
- Evaluation of collection;
- Gifts;
- Procedures for responding to request for removal or reconsideration of material;²⁴
- Procedures for weeding collection and discarding materials;
- Selection standards.

²⁴ See Appendix Six for a sample policy and procedure statement for response to a patron complaint. Copied by permission of the Birmingham Public Library from its *Collection Management Policy*.

Personnel and Collection Development - Foundation Policies

Because many library board confrontations deal with either personnel or collection issues, special attention should be given to these areas. In addition to the basic outline of concerns already given, a more in-depth look at the concerns is warranted. Without specific policies that are actually followed and enforced, trustees can find themselves in a no-win situation. Personnel issues are difficult for the simple reason that you are dealing with many different individuals. The goal of personnel policy should be to guide and encourage employees to carry out the service goals of the library, without stifling their originality and independence. Personnel policy should be clearly understandable, consistently applied to all personnel, and fair.

The first rule should be that the director is in charge of library operations. Unless there is a clear line of authority, there can be no clear line of responsibility. The trustees may guide, instruct, or replace the director. The director should be held responsible for seeing that the board's policies are translated into good service. However, the board should not yield to micro-management - or seek to work around the director. As soon as staff members see that the board can be manipulated or that the director is not really in charge, the way is opened for much disruption and difficulty.

Personnel policy should be clear. There is an often-repeated (but not verifiable) story that General Ulysses S. Grant kept an enlisted man near his command tent for the purpose of reading the Commanding General's orders. Grant was not seeking their advice or approval; he was confirming that his orders were understood and clear. The best personnel policies are clearly stated, with little opportunity for accidental misunderstanding or willful misinterpretation. If employees are expected to be on time, that is simple to state and to enforce. Even if it is clearly stated, it must be equally clear that policy will be enforced.

The board must insist on regular evaluations and resulting written reports for each employee. The entire record of an employee's service (evaluations, job assignments, salary, etc.) should be kept as a permanent file. If this is not a clearly understood requirement, it will not be done. If it is not done, sooner or later the omission will come back to haunt trustees and supervisors alike.

Personnel policies and practices must be fair. The law specifically prohibits discrimination on the basis of race, national origin, sex, age, and religion. You cannot refuse to hire a person because of their race. You cannot pay a woman less than you would a man for the same job.

The county or municipal governmental body with which the board is affiliated may heavily influence personnel policies and administration. That appointing authority may have a personnel director, or an attorney specializing in personnel matters. It would be good to take advantage of such a resource. In most instances it would also be wise to keep library personnel policies consistent with those of the parent organization.

All personnel policies, procedures, and practices should be in writing. There should be a written notice regarding all vacancies. That notice should include a statement of minimum qualifications, job responsibilities, salary range, benefits, etc. All staff members should be given copies of the same personnel documents.

Every job should have a written "job description". The employee's permanent file should contain written documentation for every evaluation, corrective interview, promotion, demotion, raise, etc.²⁵

²⁵ For a comprehensive review of personnel issues and their relationship to library operations see The Personnel Manual: An Outline for Libraries, edited by Charles E. Kratz and Valerie A. Platz.

One man's trash is another man's treasure.

This statement has been given as explanation for the otherwise incomprehensible collection of items sold in antique stores and at yard sales. In any good library collection there will be an abundance of "trash" and "treasures" - depending upon the individual taste and disposition of the reader. Libraries are the most democratic of agencies - actually seeking to represent and satisfy the needs of their entire communities. Ironically, when a library is most successful at representing all points of view is when it is most likely to be criticized. This criticism may be conveyed in a respectful letter or in a threat to boycott the businesses of the trustees.

The specific books under attack will vary. The issues that prompt criticism (and maybe responding support) are the same issues that are already found in your community: conservative/liberal philosophies; sexually offensive (or educational) material; pornography; abortion/freedom of choice; and gun control/right to bear arms. It will almost never be possible to successfully argue that the library is correct and that the citizen is wrong. In fact, in such discussions "right" and "wrong" are not reasonable conclusions because the library has a policy not to judge materials as being "right" or "wrong". This issue will find its way into your board meeting, and the only adequate response is to show that you have a plan to represent all viewpoints of your community. You cannot establish good policies regarding Intellectual Freedom and collection development in the heat of battle. These important decisions need to be made in advance.

This handbook provides copies of important documents such as the "Library Bill of Rights", the "Freedom to Read", and the "Freedom to View" (see Appendices Eight through Ten). Reading these documents will provide considerable help in understanding the issues involved. These are not easy decisions. In attempting to fairly represent all points of view, you will have to advocate the library having items with which you disagree – or even find personally offensive. One of the best ways for you to understand the library's position (and hence to explain and defend its position) is to continually think of the library "as a whole". If Mr. Jones complains that you have items advocating gun control, you can explain that you also have items advocating the right to bear arms. You can explain that by offering all points of view the library is helping citizens to make more reasonable decisions.

Sometimes you will be called upon to defend material that you truly find distasteful. There is nothing wrong with acknowledging that you, too, take issue with the contents of a particular book. In fact, such an approach is generally regarded as more reasonable than just proclaiming that the library welcomes all books. Your library does not welcome all books. Someone goes through a conscious process of selecting the books that make their way into your library.

In responding to complaints about library materials, it is important to explain why you have them. Taking the time to go through that process can often result in a library supporter who realizes that he does not have to endorse all of the materials to endorse the library. A thoughtful letter can also assure the patron that you understand his concerns. It is always helpful to get the discussion off of a single book and onto the entire library collection although it is often hard to do so.

Before the actual need arises, the board should adopt policies as to what will be added to the library collection, how evaluations will be done, what restrictions (if any) will be placed on materials, and how it will respond to requests for reconsideration or removal of materials.

Your library's written Collection Development Policy must be prepared to meet the needs of your community. It should be written in a manner so that trustees, staff, and citizens can understand what it says and its intent. The policy does not have to be lengthy, but it must be comprehensive. Numerous libraries and agencies have prepared collection policies that are worthy of amendment for your use.²⁶

²⁶ The Birmingham Public Library has prepared a comprehensive statement of its collection policies. Although it is much too lengthy for the needs of most public libraries, it certainly contains excellent examples of any collection question that your library might face.

Although we have stated that a library does not make a judgment as to whether or not books are "right" or "wrong", there is an obligation to see that your collection's material is "correct". Maintaining the accuracy of a collection by removing out-of-date materials is just as important as adding new materials. A library that provides children with a ten-year-old encyclopedia or forty-year-old book on space exploration is not doing them a favor. Keeping a medical or tax guide that is five years old is irresponsible. Continuing to house five copies of a past best seller is not the best use of valuable shelf space. Many libraries get so focused on collection quantity that collection quality is compromised. Weeding a collection takes time and commitment. Unless the board has a policy that regular evaluations must be made, they probably will not happen.

While you are considering the importance of removing material, decide what will be done with it. Will you allow it to be sold? Remember that not every item removed from the shelf is without value. The library might not need those five copies of a past best seller, but a library patron might be very pleased to obtain their own copy for a reasonable price.²⁷

Any discussion of a collection policy cannot be complete without mentioning the Internet. The Internet has brought an unending flood of information into libraries, schools, and homes. The Alabama Virtual Library (AVL) (located at: <http://www.avl.lib.al.us/>) program contracts with major information suppliers to provide excellent resources to every citizen of Alabama. Keep in mind that the Internet also includes hundreds of sites (sources for information) that have little or no regard for accuracy.

In dealing with the Internet, the public library (and its trustees) may have to face the questioning of filtering. A filter is a type of computer software, designed to restrict or eliminate access to certain subjects or web sites. The primary area of concern deals with the open access to the entire Internet by children. Unfortunately, most filters do not work well. Most either fail to restrict the undesirable material or restrict it along with valuable material on the same subject.

²⁷ See Appendix Fifteen for a sample policy and procedure statement regarding weeding and discarding. Copied by permission of the Birmingham Public Library from its *Collection Management Policy*, pp. 23-1 – pp. 23-4. See also *CREW: a Weeding Manual for Modern Libraries* (<https://www.tsl.state.tx.us/ld/pubs/crew/index.html>).

The American Library Association (ALA) has prepared a lengthy response in opposition to filtering (see Appendix Thirteen). Whether ALA agrees or not, a basic issue is that since the Internet is not evaluated for quality, it contains a wealth of inaccurate and poorly presented material.

By contrast, your library makes an honest attempt to evaluate the books and other print material added to its collection. The Internet does include many sites not acceptable for children (by any definition that a given community might accept). If your library places no limitations on access to materials (as advocated in ALA's position), it may receive considerable criticism from its own community. If it does limit access, it may receive the same type of criticism for failing to provide unlimited access to information. Your library must also be in compliance with §13A-12-200.3 of the *Code of Alabama*:

“It shall be unlawful for any person to knowingly procure or write advertisement for obscene material or disseminate publicly any obscene material. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars (\$10,000) and may also be imprisoned in the county jail for not more than one year.

If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for violations of this section shall be paid by the Comptroller to the general fund of the county where the person is held for the operation of the county jail.”

Whether or not to filter is not an easy question to decide. You will find valid (and impassioned) opinions on all sides of the issue. You need to prepare for this one. Bring in a consultant for a trustee meeting. Talk with your legal counsel regarding the issues detailed in ALA's statement. The issues are very valid and very important. It is the answers that are hard.²⁸

²⁸ For excellent help in developing Internet policies, see ALA's Internet Toolkit site (www.ala.org/internettoolkit).

Why do we need a policy on that?

During your years of service as a trustee, you will encounter questions that seem too simple to dwell on. Others will arise that simply never crossed your mind. These are questions that may not find their way into your first policy manual. But, when they arise, it is wise to set a policy and be done with the question.

"Latchkey children" is the name given to school-age children who have no one at home to supervise them after school hours. They are almost certainly present in your community, but they are not necessarily a problem. Some libraries have attempted to state that they will not serve as a community baby-sitting service. Others have come up with constructive programs that have kept young people occupied and introduced them to the library. Your library will almost certainly want to follow the second course. The difficult question often arises at closing time. For example, let's say it is closing time and the staff is ready to leave (they may have to care for their own children). There are children still at the library, still waiting for parents or friends to retrieve them. Does the staff simply leave them on the street? Some have been charged with negligence for doing so. Do they volunteer to take them home? Your board attorney will probably say that staff should never offer to carry children anywhere. Do you call juvenile authorities, which in many communities will be the police department? The answer will vary with your community. But, you need a policy for the protection of trustees, staff, and patrons.

Do you allow the homeless to sit in the library? How do you identify them as homeless? Will you allow them to shave in the restroom, or sleep in the reference room? Whether or not they are homeless, will you allow them to sleep in the library? Can patrons bring their lunch and eat it in the periodicals section? Can the Girl Scouts sell cookies in the library? Can the community insurance salesman discuss his policies with a client in the reference room? Must children be wearing shoes in order to enter the library? What type of dress is acceptable for staff members? Do you allow individuals to exhibit their artwork in the library? If so, do you require that someone approve it first? If that someone disapproves it, what is their basis for judgment?

These examples may sound petty, or they may be non-existent in your community. However, every question cited here has thrown some public library into major community turmoil. Usually, the turmoil resulted because the library board had no established policy so a staff member made what seemed to be the best decision at the moment; however, in hindsight, the decision was seen to be faulty. Policies need to be established before the time of actual need. In the absence of a policy on a given question, the board needs to take the time to thoughtfully review the question and the implications of their action. Staff can be faulted for failing to carry out board policy. Staff should not be placed in the position of having to establish policy.

CHAPTER 5

TRUSTEES AND THE LIBRARY DIRECTOR

In his publication entitled Library Trustee Guidelines,²⁹ Jack Short identifies two important jobs for trustees:

- **Most Important Board Responsibility: Know When To Change Directors**
- **Second Most Important Board Responsibility: Know How To Hire A New Director.**

Regardless of funding, dedicated trustees, and the resources of staff and the collection, most public libraries succeed or fail because of their director. No other single factor will so set the tone of staff morale, public service attitudes, and community support. Generally, the director should be the only staff member hired directly by the board. The board must establish personnel policy and may ratify appointments, but the director should make the actual selection and employment.

If a director stays for several years, he may select the entire personnel component of the library. The director will be the individual who most often represents the library to county or municipal administrators. Through public relations activities, the director will represent the library to the community. In planning for excellent service to your community, the importance of the director cannot be overemphasized.

²⁹ Short, Jack. Library Trustee Guidelines. Avon, CT: Consultant Publications, 1994.

How do we find, and hire, a good director?

In preparing to hire a director, the board must review the job description. This is a good time to consider the areas in which the library has been successful, and the areas in which it has fallen short. Adjustments almost always need to be made in the scope of the director's job, the specific requirements for the job, the pay scale, etc. Due to changes in the library's situation, specific training and experience may be needed. If you know that the library is to begin a building program, a director with some experience in that area will be helpful. If the library has experienced little budget growth, someone with a proven ability to increase community support will be an asset. In preparing your job announcement, and in considering applicants, it is very important that the board comply with all legal and equal opportunity requirements. Reviewing a few ads in national publications (i.e. *American Libraries*, *Library Journal*) will help you compose your announcement.

A goal of the board should be to hire a trained librarian with a Master of Librarianship degree from an American Library Association (ALA) accredited program. There are situations where the board cannot afford to do this. Ask yourself if there is any way you can afford to hire someone with an MLS degree rather than just assuming it cannot be done. There are many libraries in Alabama where the board struggled to hire an MLS and found it to be the best money they ever spent.

In considering applicants for your position it is very important to actually contact references. In talking with the reference you may gain important insights into the strengths and weaknesses of the applicant. How a person conducts himself in given situations can often be better understood through a conversation than simply through a written response. In talking with a former employer (often listed as a reference), try asking a simple question such as "Would this person be eligible for rehire at your library?". The answer will often bring forth valuable information. In addition to the references named by the applicant, it is a good idea to also contact the person in charge of personnel at the previous place of employment. This might be a personnel officer, an associate director, or the director. There are many questions that cannot or will not be answered because of liability concerns. But, when you ask a question and the reference does not give you a straight answer, they have told you a lot.

Consider getting a credit report on the applicant. If a person has filed for personal bankruptcy or is regularly in over his head in debt, do you want him managing the library's financial affairs? You will need to state in your job ad that a credit check will be made or get the permission of the individual. They may refuse permission, but (again) they have told you a lot.

When you have decided which applicants deserve serious consideration, arrange for interviews between the selection committee and the applicants. If their interviews will involve significant travel or lodging cost, you may want to consider reimbursing such expenses. Arrange for a staff member to give applicants a tour of the library, and allow them time to walk around alone. A good applicant can learn a lot about your library's operation by walking through the book stacks, checking the catalog, watching the public service staff, checking the condition of the restrooms, etc.

Sufficient time (usually about an hour) should be reserved for a thorough interview with questions and answers from all parties. Just as you expect the applicant to be frank and honest, you should respond in kind. Very few applicants will have all of the talents that you might desire. It is important that you distinguish between the characteristics and talents that are critical and those that are preferred. Likewise, very few libraries will be ideal institutions with absolutely wonderful working conditions. Your library probably faces serious challenges in some areas (financial resources, staff development, inadequate facilities, political quicksand, etc.). You need to be very candid in discussing all problems that you expect the new director to be capable of solving. If you never mention a situation and then expect your new director to resolve the matter, you may be off to a very poor working relationship.

Having hired a director, the library board has ongoing obligations to him or her. Earlier we have mentioned the responsibility of each trustee to be knowledgeable and supportive of the library and its programs. In addition to the need to support the director, the library board must provide opportunities for continuing education and regular evaluations.

How can we help our director stay up-to-date?

Perhaps no other professions are changing so rapidly as are those related to information. If your library is to retain its professional integrity in the community, the trustees must commit to keeping the collection and other information sources current and to enabling the staff to grow professionally. There are numerous opportunities for professional growth, or continuing education. Many are available near to home at little additional cost. Continuing education opportunities are provided through various meetings, sponsored by the Alabama Public Library Service (APLS), through regional training opportunities, and through professional organizations such as the Alabama Library Association (ALLA). Other programs require travel and lodging expenses but are well worth the investment. The biennial meetings of the Public Library Association (PLA) are first-class opportunities for training. In addition, the meetings provide great opportunities to visit trade exhibits and see what new products and services are being offered. Perhaps most importantly your staff will have the opportunity to meet with colleagues from across the country and to learn from them. Meetings for public librarians are also a part of the annual American Library Association (ALA) conference.

How is the director's job performance reviewed?

Communication is extremely important in any relationship. In the relationship between the library board and the director, communication is essential. In addition to routine memos and comments at meetings, the board must evaluate the performance of the director on a regular basis. This is not to say that the director should constantly be "under the gun" and subject to every criticism. But, more often the case, the director receives insufficient feedback and often operates with inadequate knowledge of what the board expects. At least annually, the board chairman, the board's personnel committee, or the board as a whole should meet with the director and review operations. They should review specific successes as well as failure to achieve objectives. They should review failings not so much for the purpose of assigning blame but for formulating solutions. They should review the director's relationship with staff and community. They should frankly discuss problems that have been observed or reported. They should agree on actions that should be taken, and goals and objectives for the upcoming year.

The director should be told how he is doing in the eyes of the board. If he is doing an excellent job, the director should be told so. As in every area of employment, doing a good job should be reflected in the paycheck.

It should be clearly stated if the director is not doing an acceptable job. If a specific period of time is allowed for improvement that should be stated. A review should be scheduled for the appropriate time to review progress or failure. Whatever the results of the evaluation, a written report should be added to the director's permanent personnel file.

There are high expectations that are not achieved. There are people who just cannot work together. There are people who will lie about the work they do. There are people who will steal - perhaps actually your money, but more often your time and resources. There are people who will abuse, intimidate, or threaten those who work with them. There are likeable people who are just lazy. There are people who really do not know how to do the job for which they have been employed. Some of these people will be found in virtually every work situation. In your library the trustees often may not know the specifics of a given personnel matter because the director handled it.

But occasionally, such a situation will involve the board and the director. If the board has been doing a conscientious job of evaluation and communication, most such situations will not just appear. Criminal acts may be discovered "out of the blue", but those are very unusual. Problems relating to personnel matters, poor performance, the inability to accomplish goals, and poor administration will usually be long-standing and documented. The evaluation process should have made the director aware of the problem and placed him on notice that change was expected. Usually a director will be intelligent enough to understand the situation and will make a career move. However, some people never quite get the message. Others fully understand the message, but do not believe that the board will follow through. Time will not solve senior personnel problems (except perhaps where the director is going to retire in six months).

CHAPTER 6

FUNDING

Local Funding

Most funding for your library's operation will be provided by local funding (i.e. funds provided from the tax base of the county or municipality served by the library). The procedure by which budgets are requested and approved varies from community to community. Generally, the library director will develop a proposed budget based on anticipated operating costs and proposed sources of funding. The sources of funding may include late fees, photocopy charges, meeting room charges, etc. The largest segment of support will almost certainly be that provided by local government. The library board should consider the director's recommendation and formally approve a budget request from the local government. When the request goes to the county or municipality, it should be the request of the library board. The budget process is probably the most important annual event for the library. Trustees should be completely familiar with the request as well as the library's overall budget and be able to convey to local officials why the financial support is needed. Trustees provide the most influential voice in obtaining adequate financial support for the library. The director will often be called upon to voice the request, but the trustees should be present in total support. It is not the director's library, or the director's budget request.

Some communities have gotten special legislation approved that allocates certain types of taxes to the library. These special allocations include taxes on beer, video rentals, etc. Theoretically, it is possible to have special support from virtually any taxable source. However, almost all such taxes must first be approved by the legislature and then through a local referendum.

The supplemental tax for libraries that any community can use

There is a source of financial support that may be used by any county or municipality. State law³⁰ allows any community to tax itself at the level of .5 mil on all real property. This supplemental ad valorem tax may be collected after a local referendum. The tax is collected by the county tax collector and is designated for library use. In many communities, .5 mil may not produce significant dollars.

In addition to annual operating costs, funds will be needed for special expenses (equipment, building construction, building repair, bookmobile). Most communities budget such items separately from the "operating budget". Construction funds are almost always handled as special and unusual situations. In developing a request for construction funds, the board must do considerable preparation. Obtaining approval for construction funds is usually a multi-year process. The trustees must be able to answer detailed questions as to why a building is needed, the improvements that it will bring to the community, how it will be staffed, etc. The most common problem involves the estimating of actual costs. Because the process will almost certainly take several years to complete, the board and staff must be careful not to underestimate costs. It may appear difficult to get the full amount approved. But, it will be even more difficult to go back to funding authorities when the bids are taken and available funds are totally inadequate.

³⁰ See Amendment No. 269, "Special Property Tax by Counties or Municipalities for Library Purposes," *Constitution of Alabama, 1901*.

State Aid

Supplemental funding for public libraries is provided through the Alabama Public Library Service (APLS). Funds for State Aid are included by the legislature in the annual APLS budget and are distributed on a per capita basis. To determine legal service areas for State Aid purposes, APLS uses the U.S. Census Bureau's Population Estimates Program (PEP) which produces estimates of the population for the United States including states, counties, cities, and towns. Each year the new population estimates are released on July 1st for the previous year.³¹

Library Services and Technology Act (LSTA)

The Library Services and Technology Act (LSTA), administered by the Institute of Museum and Library Services (IMLS), provides federal funding to the states for which public libraries may apply.³² [NOTE: The original Library Services Bill was introduced by Senator Lister Hill of Montgomery in 1946. The Library Services Act (LSA) was signed into law on June 19, 1956 by President Eisenhower making it the first federal legislation for public libraries.]

Priorities for programs and available funding are established annually. The Alabama Public Library Service (APLS) distributes guidelines for annual programs for which Alabama libraries may apply. Recommendations regarding which grants to fund and their level of funding are prepared by the LSTA Advisory Council and sent to the APLS Executive Board for action. APLS administers all competitive grants funded through LSTA.

³¹ See Appendix Sixteen for detailed information regarding State Aid requirements, acceptable uses, reporting requirements, etc.

³² For detailed information on IMLS and its grants or programs, see www.imls.gov.

E-Rate

E-Rate funding is available through the Telecommunications Act of 1996 to assist libraries and schools with their telecommunication and Internet costs.³³ Funding is provided to virtually any public library (or public library system) on a formula based on the number of children eligible for free and reduced meals in the corresponding school district. The process can be intimidating. However, since the costs of modern telecommunication services are high, E-Rate can provide very significant reductions in cost.³⁴ Assistance with the process is provided by APLS.

Grant requests to foundations and trusts

Regular library funding can be supplemented with grants from foundations and trusts. There are national foundations that could provide virtually any level of support - but competition is very intense. Complete information on grant-awarding foundations can be found in materials published by The Foundation Center (www.foundationcenter.org).

Local foundations and trusts are often the best sources of special funds for your library. Many banks administer trusts and foundations of various descriptions. Other private foundations range from family ventures to the philanthropic services of larger corporations.

With recent changes in Internal Revenue Service (IRS) regulations, most grants now require that applying organizations have a 501(c)(3) status in order to be eligible. Libraries of any size can form a foundation which will be overseen by a community-based board of directors. The foundation becomes a grant-offering organization to the public library that it supports and will approve monies for special projects as requested.

³³ In order to receive funding for Internet service, the library must be compliant with the Children's Internet Protection Act (CIPA). (See Appendix Seventeen)

³⁴ For a complete description of the program, see www.sl.universalservice.org.

Because public libraries may not own property (real property, securities, etc.), a separate foundation has the advantage of being able to receive and own property and to be qualified as a charitable organization – recognized as such by the Internal Revenue Service. The ability of a foundation to receive tax-deductible gifts provides a significant advantage in fundraising efforts.

How do I help raise funds for the library?

Working to find financial support is one of the most important roles for any trustee. For the board members of many charitable organizations the guideline for fund raising is: "Give it, get it, or get off [the board]". For most public library trustees the emphasis on fund raising is not so strong. However, trustees should never forget their responsibility in this area or the great influence that they can have on elected officials. The word is distasteful to some, but the process by which we seek to influence public officials is generally referred to as "lobbying".

Lobbying efforts may deal with matters other than money. There may be a need to make officials aware of specific situations that may be improved (or worsened) by legislation. Still, funding requests are those that we most readily identify with the lobbying process. In your role as trustee you may be called upon to support funding for your local library, funding for statewide programs that may benefit your local library, and funding for national programs.

In regards to local funding, you may contact your county commissioner, mayor, city council member, etc. Usually, you will be reinforcing the library board's request for the annual budget or for a special allocation - such as a building project. Your personal contact is important because you are seen as a trusted member of the community (otherwise you would not have been appointed to the board) and because you have personal ties to the people making the funding decisions. Personal ties are very important. Elected officials (like everyone else) are most likely to listen to, and have confidence in, people they already know. They already know you. They appointed you to the library board. They know it is your job to represent the interests of the library and they will appreciate your contact. The all-important matter of fund raising should not be left solely to the director. Paid staff is often seen as having a vested interest in the request and the director may not be a long-time resident of the community.

There is someone in the decision-making process who you know better than anyone else on the board. Make it your responsibility to see that this particular person is kept aware of the library. Do not limit your contacts just to requests for funding. If the library has a special program for children, let them know. Should the library win an award or receive special recognition, invite them to the ceremony. Introduce them to the director. Keep them aware of the library's daily activities in the community, not just its annual request for funding.

While they may feel comfortable contacting someone at the local government level, many trustees withdraw at the prospect of contacting state officials. Often they do not personally know the individual. The process by which legislation is approved intimidates them. They are not certain who to contact or how to reach them. Sometimes we feel that our comments will not be heard or appreciated.³⁵

Actually, state legislators are usually very receptive to comments - even though they may not be able to grant your request, or may choose not to do so. Most state funding is the result of regular and long-term contacts. The same rules apply in contacting state representatives as were discussed in regards to local funding, except you may not personally know each other. The first rule of state lobbying is to become known to your legislator. When they learn who you are (particularly if you are from their district), they will welcome your comments and may actually appreciate them. Legislators are confronted with an insurmountable stack of paper at each session. It is not humanly possible for them to read, comprehend, and remember all that comes across their desk. It is not a coincidence that the groups who stay in touch with the legislature get their legislation passed.

³⁵ A listing of all legislators, committee assignments, status of pending legislation, etc. can be found at the Alabama Legislature's web site (www.legislature.state.al.us).

Chances are your representative knows very little about libraries and how they are funded. State Aid funding for Alabama public libraries is provided through the Alabama Public Library Service (APLS) and is included in the Special Education Trust Fund (ETF). The ETF is a massive budget and includes funding for hundreds of state functions. Funding for public libraries is a small portion of that total budget. You can become your representative's resident expert on public libraries. When the budget is being considered, give them a call or drop them a note. Your comments do not have to be lengthy or argumentative. Just remind them that support comes to your local library through funds provided to APLS and that you appreciate their support of your local library. They may have no idea that a portion of the APLS budget actually goes directly to their community. When support is provided, be sure to send a thank you note.

Lobbying at the Federal level can be even more intimidating.³⁶ Big money and power groups influence much of the legislation. These powerful organizations and wealthy individuals regularly contact members of Congress. Your congressman has probably not received a letter today from a constituent regarding library service. If your library receives an LSTA grant, write your congressman and say thanks. The check will come through APLS and your congressman will have had nothing to do with the actual award process. Invite the press; make a big deal of it. If your library gets a significant rebate in telephone costs (as many in Alabama do), be sure that your congressman knows that E-Rate funding is actually reaching your library (and their community). If your congressman supported the legislation making these grants possible, he will be glad to know that his community is actually being helped - and that his local constituents know it. If he did not support the legislation, your contact may make him more receptive next time.

³⁶ For Congress contact information, see www.congress.org.

CHAPTER 7

ALABAMA PUBLIC LIBRARY SERVICE

The Alabama Public Library Service (APLS), the State Library Agency, is often referred to by librarians as the "Library's Library". Although the reference is descriptive of one of the agency's major functions, APLS serves **all** residents of Alabama directly or through their local public libraries via on-site visits, telephone, fax, and the Internet.

The agency grew from a Division of the Alabama Department of Archives and History and was established as a separate entity by Act 600 of the State Legislature in 1959. APLS is charged by statute (§41-8-1 to §41-8-10 of the Code of Alabama, 1975) to develop a cooperative system of providing books and library services for municipalities and counties and to advise all free public, regional, municipal, and county libraries and communities on establishment and operation of library service (see Appendix Seventeen).

Executive board members and their appointment

The seven-member executive board of the agency is appointed by the Governor and is required to make an annual report to the Governor describing public library conditions and progress in Alabama. Members of the board are appointed for five-year terms. Each member serves as the representative of one of Alabama's seven congressional districts. The APLS Executive Board operates in a fashion similar to local library boards as it is empowered to hire the APLS director, establish policy, and oversee the agency operations.

Objectives

The objectives of the Alabama Public Library Service are to:

- Provide library services to citizens directly or through local libraries.
- Provide library services for those with special needs through the Regional Library for the Blind and Physically Handicapped (BPH).
- Provide library services to employees of the State of Alabama to meet their work-related information needs.

- Assist in establishing cooperative library services and networks.
- Provide continuing education opportunities for librarians.
- Provide consulting services to public libraries.

Organization

To accomplish the established objectives the agency provides services to individuals, libraries and institutions through its divisions:

- Administration (Office of the Director);
- Consultants;
- Direct Services;
- Information Technology;
- Regional Library for the Blind and Physically Handicapped (BPH).

State Aid

The Agency is responsible for the administration and distribution of State Aid for public libraries. State Aid funds are appropriated by the Alabama Legislature and distributed on a per capita basis to public libraries established under §11-90-1 to §11-90-4 of the *Code of Alabama, 1975*. Rules and regulations for the distribution of the funds are published in the Alabama Administrative Code, Chapter 520-2-2. This document is available on the APLS website (http://webmini.apls.state.al.us/apls_web/apls/apls/?q=stateaid).

Library Services and Technology Act (LSTA)

Federal funds for the Library Services and Technology Act (LSTA) grant program are appropriated by Congress and administered by the Institute of Museum and Library Services (IMLS) to meet goals established by the Act. In order to receive the funding, APLS must maintain a five-year plan outlining the needs of Alabama and demonstrating how Federal funds will aid in the improvement of library service to citizens.

The LSTA Advisory Council on Libraries assists the APLS Executive Board and staff in the grant process. The Council is appointed by the board and consists of 16 members representing public and institutional libraries as well as library users and a faculty representative from the University of Alabama School of Library and Information Studies. Trustees of public libraries are encouraged to apply for library user positions on the Council as openings occur.

Grant program documents and application forms are distributed annually to all libraries eligible to apply for federal grants. Grants are available for materials, equipment, programs, and other services.³⁷ Rules are published in the Alabama Administrative Code, Chapter 520-2-1. This document is available on the APLS website (http://webmini.apls.state.al.us/apls_web/apls/apls/?q=lsta). Of particular interest to library trustees, funds are normally set aside to fund professional training grants. These grants enable trustees and library personnel to attend continuing education activities.

Alabama Virtual Library (AVL)

The Alabama Virtual Library (AVL) is managed by APLS, the Alabama Commission on Higher Education (ACHE), the Alabama State Department of Education (ALSDE), the Alabama Department of Postsecondary Education, and the Alabama Supercomputer Authority (ASA). The AVL is a unique service for all public libraries, public schools, higher education institutions, and residents in the state. The AVL provides online access to thousands of reliable resources including:

- Electronic reference books
- Encyclopedias
- Full-text magazine articles
- Homework aids
- Medical information
- Statistical sources

³⁷

In order to receive grants for equipment to access the Internet, the library must be in compliance with the Children's Internet Protection Act (CIPA). (See Appendix Seventeen)

Consulting

On-site assistance to Alabama's public libraries is provided by experienced professional library consultants. The consultants work with the libraries in their assigned geographic areas regarding requirements for supplemental State Aid and LSTA grants as well as the following topics:

- Adaptive technology
- Children/Teen/Adult programs
- Collection management
- Continuing education
- Disaster planning
- E-Rate program
- Establishment of new libraries
- Friends/Trustees
- Library automation
- Library building/renovations
- Library education
- Library foundations
- Statistics

Direct Services

APLS offers a number of services to all of the residents of Alabama through their local public library. These direct services include Database Resources (i.e. *HomeworkAlabama* and *LearningExpress Library*), Reference, Interlibrary Loan, and Job Assistance. All of these services can be accessed on the APLS website (http://webmini.apls.state.al.us/apls_web/apls/apls/).

Interlibrary Loan – Public libraries and state employees are able to borrow materials from libraries through the State of Alabama Resource Sharing (STARS) Catalog which provides location information for where those materials can be found.

Job Assistance – APLS offers job-related materials and research help for state workers.

Reference - The reference staff provides assistance with research and answers questions regarding books, periodicals, the Internet, professional materials, the Book Club collection, and much more. As part of the service the agency maintains an extensive collection of materials about Alabama and by Alabama authors.

Information Technology (IT)

The role of the APLS IT staff is to assist with the technological needs of Alabama's public libraries and to fulfill the technological requirements of the agency, including the functioning of contracted databases.

The IT staff travels to libraries and assists with hardware, software, and network issues that can only be fixed at the library. When possible, they troubleshoot issues via phone, email, or remote access.

The IT staff also offers its expertise when libraries are purchasing software and equipment, as well as when libraries are applying for LSTA technology grants.

Regional Library for the Blind and Physically Handicapped (BPH)

The Alabama Regional Library for the Blind and Physically Handicapped (BPH) Division is a focal point in Alabama for library services to blind, visually impaired and physically handicapped citizens. Through a cooperative network within the Library of Congress National Library Service (NLS), APLS provides special format reading materials (i.e. Braille, cassette, digital, and downloads), playback equipment, and other library resources to qualifying users. Free mailing privileges are provided by the United States Postal Service.

Services are provided directly through BPH or by the sub-regional libraries located at the Huntsville-Madison County Public Library and the Alabama Institute for the Blind in Talladega. All services are provided at no charge and a special telephone number (1-800-392-5671) is provided for BPH users.

CHAPTER 8

BUILDING PROJECTS

Few projects can be as exciting, intimidating, tiring, and rewarding for a library board as the building of a new or expanded library building. There may be individuals on the board who have dealt with some type of construction, but for the board as a whole it is usually a new experience. New libraries just do not happen often enough in most communities for boards to become familiar with the process.³⁸

There are several stages to a building project, the first being one of awareness. We would like to think that we plan in advance for needed space, but that seldom happens in real life. In most communities the public library is out of space (or out-of-date) long before plans begin for a new building. Sometimes the board is aware of the problem and hires a director with the specific goal of building a new facility. Sometimes the staff is aware of the situation and must educate the board before plans can move ahead. When the board and staff are aware of the problem (and convinced that a new building is needed), activity can move to making the community aware of the problem.

Planning for growth

Preparing the community to build a new library is usually a long process. Just saying you need a new building will not win much support. You need to systematically document the need in a very business-like manner. The process by which needs are determined is termed the *planning process*.

Planning does not relate solely to plans for a new or expanded building, but planning is a crucial part of the building process. There are consultants and publications to help.³⁹ However, there is no shortcut to this being a lot of work.

³⁸ For a comprehensive and practical guide to the process of designing and building public libraries see Checklist of Library Building Design Considerations, edited by William W. Sannwald. When beginning a building project, purchasing a copy for every trustee would be a good investment.

³⁹ The Public Library Association offers several excellent guides to the planning process. Information about the various guides, and the process, are available from APLS.

Throughout the planning process you will look at your community and ask yourself:

- What is your community like now and how is it expected to change?
- How many school-age children are in your community? How is this number expected to change in the next ten years?
- Are there changes in residential patterns?
- How many citizens are over 65? Will they be the dominant portion of the community in the next ten years?
- How will resources such as the Alabama Virtual Library affect the space needed for reference books?
- Does community growth indicate the possible need for a branch library in the next ten years?
- Where will schools be located in the next ten years?

All of these questions, and untold numbers more, will impact what needs to be done regarding library service for your community. You must remember that you are developing a plan for library service, not just justifying a new building.

Gaining community support

Community support for your plan will be strengthened by objective, verifiable information. If generally accepted standards say that your community library should house 50,000 books and the present building has room for 25,000 - that is a strong argument. If the law says that public facilities should be accessible to the handicapped and your present building cannot be made accessible - that is a strong argument. If the community encourages educational programs for children and your library has no room for programs - that is a strong argument. If the building needs major renovations such as a new roof, new heating and air conditioning, or handicap accessibility, is it a sound business decision to continue putting money into a building that cannot be made adequate? Does another community organization need a building the size of the present library? If so, could building a new library meet the needs of both groups?

It is important that every board member and every staff member understands why a new building is needed. Often when away from the library (i.e. grocery store, church, etc.), board members and staff are asked questions regarding the library. Knowledgeable responses to questions such as "Why do we need a new library building?" will carry much influence in the community. At the same time that board members and staff should be prepared for casual responses, a formal plan for public information should be prepared. Civic and study groups are always looking for programs. Put together an educational (and entertaining) presentation on what a new library could mean to the community. Set your goal to educate everyone as to why a new library is needed. Understand that you will not convince everyone. Emphasize that this is to be their new library. If someone states that they haven't used the library in years so library services aren't important to them, point out that they may not have needed the services of the local Fire Department either but they don't want that service to disappear, do they?

Obtaining funding

Only when the need has been established within the community can you hope to obtain funding. There are always more demands on the local tax dollars than there are dollars themselves. When the community sees the library as a priority, it amazingly becomes a priority for financial decision-makers. If the library is seen as an out-of-date facility, operated for the benefit of only a few, it will seldom gain financial support.

Often the first allotment of funding will provide for initial planning or property acquisition. At this very early stage the staff and board must make important decisions that will influence the entire project. The site is absolutely crucial, and the *Checklist of Library Building Design Considerations* provides valuable guidance in making this important decision. Do not be tempted to accept just any site because it is inexpensive – or even free. The cost of a new building should not be estimated before you actually have such information. You will almost always estimate low and the official will always remember that you said the library could be built for less than the actual cost. You have much work to do before you can accurately estimate cost.

Preparing a building program

In the early stages it is more important that staff and board agree on what the new library is to accomplish, rather than what it will look like or what it will cost. You will need to prepare a building program for your new library. You cannot expect an architect to design the building you need if you do not tell him what the building needs to accomplish. The building program is a very important document and should include the following points:

- If every area of the building should be handicap accessible, you must say so.
- If lighting should be planned so that future rearrangement of shelving will not leave areas of dark shelves, that requirement must be stated.
- What areas are to have emergency lighting?
- How many books must the library hold on opening day?
- How many books will be added each year?
- How will the building be expanded when the need arises?
- If you want staff to be able to visually monitor entrances restrooms, you must say so.
- Where will you store supplies?
- Do you want to be able to add computer cable without tearing out the walls?
- If lights are installed in a 30-foot high ceiling, how will you service them?

This is certainly not an exhaustive list. Keep in mind that every feature that you want in the new building should be identified. The architect may be very talented in designing attractive buildings, but they cannot be expected to know how your library operates. You certainly want to visit other libraries for ideas. You may want to contract with a consultant to assist in the planning.

Selecting an architect

When you have reasonable expectation of getting funding for the building and you have done your homework on the features needed in the new building, it is time to select an architect. The library board may have complete freedom in selecting this important team member for your building project. The funding authority may have established guidelines for selecting such professional assistance. This is a very important decision. You are selecting the people who will design the building that you will have to live with and maintain for many years.

A good initial question when considering an architect is: "What libraries have you helped to design and plan?". Unless you want to spend a lot of time educating the architect, or want to live with the results of your library being designed just like any other building, experience is important. Alabama has several excellent firms that have participated in multiple library projects. Neighboring states offer a similar source of talent.

When you have narrowed the list of potential architects to two or three, give each firm all available information regarding the project (i.e. site, estimated size, estimated budget, special requirements, etc.) and ask them to make a formal presentation that includes the following:

- How would they approach the project?
- What other library projects have they done? (Ask to see pictures of representative library projects)
- How closely did they conform to budget guidelines on previous jobs?

Get the names of engineering firms that would be working on your project.⁴⁰ Get a feel for how you could work with the architect. Do they seem open to questions or suggestions? Do they think they already know all the answers about your project? Ask for references and call them. Ask specific questions. You will usually receive specific answers.

⁴⁰ The architect will oversee the entire design, but others will perform key components of work. Examples of such work include: soil engineering, structural engineering, mechanical and electrical engineering, landscape design, and interior design.

It's your building; don't let others decide what you need

During the design process the board and the staff should regularly review the developing plans. Look for poor visibility, problem traffic patterns, wasted space, inadequate storage space, etc. Make certain there is an abundance of electrical outlets and that they are where needed. You can be certain that the first versions of the plans will be severely lacking in electrical resources. Do not let the architect convince the board that changes are not needed. Changes that are simple, and relatively inexpensive, during the design stage will be messy and very expensive later. Do not accept lighting that will be difficult or expensive to maintain. If your present building has a flat roof that leaks, do not accept the argument that a new flat roof will not leak. It will. Remember that the ongoing cost of building operation and maintenance can vary greatly depending upon the design and materials used.⁴¹

The final building design will be a collection of compromises. Getting the architect, interior designer, board members, and the director to agree on colors will be interesting. There will be more serious compromises – usually based on what is affordable. As you work through the design process you will come to recognize the things that are of lasting importance, in contrast to those that are not really worth fighting over. No matter what color is selected, it will be changed in a few years. No matter how much you save on cheap shelving, it will not be seen as a bargain in five years.

⁴¹ It will pay long-term dividends for the director to study Lueder and Webb's Administrator's Guide to Library Building Maintenance.

At the PLA Conference in 2000, Fred Schlipf and John Moorman provided their "**27 Snappy Rules for Good and Evil in Library Architecture**". The rules will help you to remember that you and your staff know more about the needs of your library than do many architects. They will remind you that the library you are planning will be expected to last a lifetime, and the current fashion trend is not really important in that context.

1. Few libraries have ever built enough storage space on purpose.
2. The right number of entrances to a library is anything up to one.
3. Echoes are not our friends.
4. Even if it's stupid, as long as it's legal, you can have whatever you want.
5. Never buy a chair until you've spent at least 15 minutes sitting in it.
6. Never sign a completely open-ended contract with a professional.
7. When citizens enter a library, they want to see librarians and books.
8. The layout of a good building is intuitively obvious.
9. You can't match your carpet.
10. Reject traditional architectural forms at your peril.
11. Always show your plans to your custodians.
12. A service desk is a service desk, not a monument.
13. No matter what you call it, EIFS is still an eighth of an inch of stucco over plastic foam.
14. Carpet squares tend to look like squares of carpet.
15. Any sign worth making is worth making well, and lots of signs aren't worth making at all.
16. Never hire a consultant who works for your architect.
17. Today's trendy color scheme is tomorrow's avocado and orange.
18. Skylights cause impossible glare, but they make up for it by leaking.
19. Creating excitement with light in a library is like creating excitement with steps in a nursing home.

20. Never create a cozy corner you don't want occupied by a bag lady.
21. Even if your books are about pears and your staff is pear-shaped, you still don't want a pear-shaped library.
22. You can turn HID lighting off, but you can't turn it back on again.
23. Watch your sightlines. The romantic dreams of Grace Livingston Hill fans do not include unexpected glimpses of the men's room in action.
24. No matter what turns a designer on, a library is not an airline terminal, a torpedo factory, or a Chuck-E-Cheese.
25. Task lighting and down lighting are not completely evil, but they come close enough for all practical purposes.
26. Buy strong. There is no theoretical upper limit to the number of teenagers who can occupy a chair.
27. Ars longa, technologia brevis ("Art is long, life is short").

Bid process

The bid process usually determines the process by which the construction contractor is selected. Each local government has some peculiarities in its bid process, but essentially the job will be awarded to the lowest responsible bidder meeting specifications. Normally, the architect will review the bids (along with the documentation as to subcontractors and materials) and will recommend which contractor should receive the award. Furnishings and equipment will be awarded in a similar manner.

Funding ongoing operations

The contractor and suppliers will provide estimates of completion dates and deliveries. You will have already provided the funding authority with estimates of the additional staff and operating costs associated with a new building. Now, you must fine tune those estimates and make certain that they are reported to funding authorities. It is a sad situation when a new library is completed and there are not funds for necessary staff or for additional book purchases. The building project will not be complete until construction is complete and adequate operating funds have been secured.

CHAPTER 9

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APPENDIX ONE

Sample Library Board Bylaws

Article I: *Name, Board Membership and Responsibilities*

- The name of this organization is the Board of Trustees of the Public Library, (Location) Alabama.
- The board shall have those duties and responsibilities authorized by the *Code of Alabama, 1975, § 11-90-1 et seq.*
- The Board of Trustees is comprised of (five) trustees appointed by (indicate method of appointment for the specific board).
- The first members of this board shall be named to staggered terms of one, two, three and four years. Thereafter, the term of office is four years. Vacancies are filled in the manner by which members are regularly named and are filled for the remainder of the unexpired term.
- A trustee can be removed only by a majority vote of the appointing authority and only upon a showing of good cause.
- Trustees serve without compensation, except that necessary traveling and subsistence expenses incurred may be paid from the public library fund.

Article II: *Meetings, Officers*

- The regular meeting of the Board of Trustees shall be held at (time) on (day of the month) at (location). The board will abide by all requirements of Alabama law regarding open meetings.
- The annual meeting is that held for the purpose of electing officers.
- A quorum of the board consists of (number) members.
- *Robert's Rules of Order*, latest revision, shall govern the proceedings of the board and of its committees to the extent applicable.
- Special meetings may be held at any time when called by the Chairman or at the request of (number) members. All members must be notified at least (specify amount of time) in advance of a special meeting. Only items on the announced agenda may be considered at a special meeting.

Article III: *Officers and Duties*

- The officers of the board shall be a Chairperson (or President), Vice Chair (or Vice President), Treasurer and a Secretary. The board may name such other officers as it deems to be needed.
- Officers are elected (annually) at the regular meeting of the board in (month) and shall take office in (month) to serve for (term). No member may serve longer than (state time and/or consecutive terms).
- The Chairperson (or President) shall (insert duties)
- The Vice Chair (or Vice President) shall (insert duties)
- The Treasurer shall (insert duties)
- The Secretary shall (insert duties)
- The Board of Trustees may function as a committee of the whole without appointment of standing committees.
- The board may establish standing committees, which shall make regular reports. Membership on a standing committee shall be for one year by appointment of the Chairperson (or President). (If the board wishes to establish standing committees, such committees may be listed and defined by the bylaws).
- Special committees may be authorized and appointed by the Chairperson (or President) for special, limited purposes and shall serve only until completion of the assignment.

Article IV: *Library Director*

- The board shall retain a qualified Director who shall administer policies adopted by the board; employ, direct and supervise staff members; prepare required reports; recommend policies and procedures and promote effective library service.
- The minimum requirements of the Director shall include (insert minimum requirements, e.g. Holding a Master of Library Science degree from a graduate school accredited by the American Library Association).
- The job description of the Director and all other library job descriptions shall be placed in the staff manual.

Article V: *Adoption or Amendment of Bylaws*

Amendments to these bylaws, or to any policy documents of the board, may be adopted by a majority vote of members of the board present at a regular meeting subsequent to notification of the proposed change.

Article VI: *Order of Business for a Regular Meeting*

Parliamentary procedure is the accepted method of conducting business, which allows everyone to be heard as part of an orderly process. *Robert's Rules of Order, Newly Revised* is normally used as the basis for parliamentary procedure. The order of business for each regular meeting of the board shall include the following, not necessarily in the order listed:

- Call to order,
- Roll call,
- Minutes of the previous meeting for action,
- Correspondence to the board,
- Recognition of visitors and establishing time limits for presentations,
- Review financial reports, and approve financial actions,
- Review and approve personnel actions,
- Report of the librarian, to include statistical and program information,
- Reports of officers and committees,
- Unfinished business,
- New business,
- Adjournment.

Article VII: *Date of Adoption*

These Bylaws are hereby adopted by the Board of Trustees of the (Name) Public Library, meeting at (location) on (date).

APPENDIX ONE

Sample Library Board Meeting Agenda

ABC Public Library
Executive Board Meeting
October 1, 2013

1. Call to order
2. Adoption of Agenda
3. Approval of Minutes from September 1, 2013 Meeting
4. Chairman's Report
5. Unfinished Business
6. New Business
7. Director's Report
8. Adjourn

APPENDIX TWO

Administrative Memorandum 12-04 Regarding the Beason-Hammon Alabama Taxpayer and Citizen Protection Act (i.e. "Alabama Immigration Law")

Administrative Memorandum 12-04

To: Library Directors
From: Rebecca S. Mitchell
Subj: Alabama Immigration Law
Date: March 1, 2012

Re: IMPORTANT ACTION REQUIRED – ALABAMA IMMIGRATION LAW

The Beason-Hammon Alabama Taxpayer & Citizen Protection Act (Act 2011-535), signed by Governor Robert Bentley, helps protect our constitutional rights as Alabama citizens and business owners while promoting legal immigration practices. Effective immediately, this new law requires all employers within the State of Alabama to verify the legal presence within the United States of its employees. In order to receive your 3rd quarter state aid check or reimbursement for your LSTA grant, we must have the E-Verification.

In order to be eligible for future payments of state aid or LSTA reimbursement funds each library is required to have on file with APLS the following:

- 1) A completed copy of the E-Verify Memorandum of Understanding (MOU), which is generated when the business entity or employer enrolls in that program, bearing the number assigned to that MOU by Homeland Security.

This document is generated when you go online through the Alabama Department of Homeland Security. <http://immigration.alabama.gov>. On the first page of this website click on Employer Agent Office. This will take you to another page to create a username and password. When filling out the forms to verify that you have no illegal aliens in the employment of the library, you will use your EIN number issued to your library by the federal government. The EIN number is also listed on your library's W-9 federal form used currently by APLS for your state aid payments.

If you do not do your own hiring but the city or county hires for you, or if you use the EIN number for your county or city you may not be able to E-Verify. In that case, ask your city or county to make a copy of their certificate of E-Verify and send to APLS.

Once we have your certification, we will keep it on file and you will not be required to send it with each request for payment of LSTA or State Aid. In addition to the E-Verify certification

document, your library must also have a completed copy of the attached affidavit stating you will not knowingly hire an unauthorized (illegal) alien.
Please see attached document.

For clarification or questions concerning this memorandum please contact:

Rebecca S. Mitchell 334-213-3901 (rmitchell@apls.state.al.us)

Scott Burbank 334-213-3929 (sburbank@apls.state.al.us)

Kelyn Ralya 334-213-3976 (kralya@apls.state.al.us)

FORM FOR SECTIONS 9(a) and (b) BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT; CODE OF ALABAMA, SECTIONS 31-13-9(a) and (b) AFFIDAVIT FOR BUSINESS ENTITY/EMPLOYER/CONTRACTOR

(To be completed as a condition for the award of any contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees)

State of _____

County of _____

Before me, a notary public, personally appeared _____ who, being duly sworn, says as follows: (print name)

As a condition for the award of any contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, I hereby attest that in my capacity as

_____ for _____
(state position) (state business/entity/employer/contractor name)

that said business entity/employer/contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien.

I further attest that said business entity/employer/contractor is enrolled in the E-Verify program. (ATTACH DOCUMENTATION ESTABLISHING THAT BUSINESS ENTITY/EMPLOYER/CONTRACTOR IS ENROLLED IN THE E-VERIFY PROGRAM)

Signature of Affiant

Sworn to and subscribed before me this _____ day of _____, 20 _____. I certify that the Affiant is known (or made known) to me to be the identical party he or she claims to be.

Signature and Seal of Notary Public

APPENDIX THREE

Chapter 90, "Free Public Libraries", §11-90-1 to §11-90-4 of the *Code of Alabama, 1975*

TITLE 11 – COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 90 – FREE PUBLIC LIBRARIES

§11-90-1. Powers of counties and municipalities as to establishment and maintenance of free public libraries generally.

The county commissions of the counties of this state and municipalities, through their governing bodies, may establish and maintain or aid in establishing and maintaining free public libraries for the use of the citizens of the respective counties or municipalities, either separately or in connection with public schools, and to that end may accept gifts, donations, and bequests of land, buildings or money therefore and may make appropriations from the county or municipal treasury in support thereof in such sums as they may deem proper. (*Acts 1920, Ex. Sess., No. 93, p. 146; Code 1923, §1545, Acts 1939, No. 198, p. 350; Code 1940, T. 55, §285.*)

§11-90-2. Library boards – Composition; appointment and terms of members; vacancies in office.

The government and supervision of such libraries shall be vested in a library board consisting of five members who shall be appointed by the county commission or the governing body of the municipality. The terms of membership on the library board, as first appointed, for one member shall be for one year, for the second member shall be for two years, for the third member shall be for three years, and for the remaining two members the terms shall be for four years. After the first term, all appointments shall be for four years. The county commission or governing body shall fill all vacancies including expired and unexpired terms. Members of the library board shall serve without compensation. (*Acts 1919, No. 763, p. 1124; Code 1923, §1546, Acts 1939, No. 199, p. 351; Code 1940, T. 55, §286.*)

§11-90-3. Library boards – Powers and duties.

(a) The library board shall have full power and authority to:

(1) Control the expenditure of all funds received or appropriated for such libraries;

(2) Erect or rent buildings to cost not in excess of the funds available to it;

(3) Purchase books and equipment;

(4) Provide a system of library service to be made easily available to all citizens of the county or municipality through central library, branches, stations, book truck service, or other appropriate means;

(5) Elect a librarian and other employees; and

(6) Manage and control the said library in order to carry out the full intent and purpose of this chapter.

(b) A careful and complete record and set of books shall be kept by the library board, showing the proceedings of their several meetings and the receipts and disbursements in detail of all funds.

(c) In counties where a city having a population of not less than 65,000 already maintains a free public library, a separate county library board need not be appointed, and the county libraries and the appropriations authorized shall be administered by the governing board of such free public library on such terms as may be agreed upon between the county commission and the said governing board.

(Acts 1919, No. 763, p. 1124; Code 1923, §1547, Acts 1939, No. 200, p. 351; Code 1940, T. 55, §287.)

§11-90-4. Establishment and maintenance of joint library service.

In lieu of establishing or maintaining free public libraries exclusively for a single county or municipality in the manner provided in this chapter, the library board of any county or municipality free public library may contract, in behalf of the political unit represented by such local library board, to and with the library board of another political unit or governmental agency or instrumentality with respect to the establishment or maintenance of joint library service upon such terms as may be agreed upon by the several contracting parties. Where there is no existing public library, the power thus to contract shall vest in the county commission of the county or the governing body of the municipality. Included in the power conferred is the determination of the basis and personnel of representation of the local political units on the joint library board administering the joint library service established under this section. Such board, when appointed, shall have the powers and duties granted by this chapter to county or municipal library boards. County and municipal library boards or joint library boards shall have the power to cooperate with all state and federal agencies and institutions in furtherance of the purpose of this chapter, and all municipal, county and joint library boards shall from time to time submit such records and reports as may be required by the public library service; provided, that nothing in this section shall be so construed as to infringe upon any municipal charter provisions governing the administration of existing free public libraries.

(Acts 1919, No. 763, p. 1124; Code 1923, §1548, Acts 1939, No. 201, p. 352; Code 1940, T. 55, §288.)

APPENDIX FOUR

Guidelines for Public Officials and Employees [for Ethics Law Compliance]

The purpose of these guidelines is to inform Public Officials and Employees of key provisions and prohibitions in the Revised Ethics Law.

These guidelines merely provide an overview of the law and, in no way, are intended to be a comprehensive review of the Ethics Law. The Ethics Law may be seen in its entirety on our website: www.ethics.alabama.gov. For a more comprehensive review, you can view our training video which can be found on our website as well. For further information or for any questions you may have, see our contact information on the last page of these guidelines.

Questions on matters concerning election finance laws to regulate and report the raising of campaign funds and expenditures, as well as questions relating to PAC-to-PAC transfers and double-dipping prohibitions, should be directed to the Office of the Attorney General (334.242.7300) and the Office of the Secretary of State (334.242.7200), as these matters are now dealt with under *The Fair Campaign Practices Act* and other recent acts.

Who Are Public Officials and Public Employees?

A **Public Official** is:

"Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-13-40."

A **Public Employee** is:

"Any person employed at the state, county, or municipal level of government or their instrumentalities... For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

PERTINENT LAW

PERSONAL USE OF OFFICE – Section 36-25-5(a) states:

"No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-5(b) states:

"Unless prohibited by the Constitution of Alabama of 1901, nothing herein shall be construed to prohibit a public official from introducing bills, ordinances, resolutions, or other legislative matters, serving on committees, or making statements or taking action in the exercise of his or her duties as a public official. A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest."

Section 36-25-5(c) states:

"No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-5-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy."

Section 36-25-5(e) states:

"No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity."

CONTRIBUTIONS – Section 36-25-6 states:

"Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use."

SOLICITATION BY OFFICIAL OR EMPLOYEE – Section 36-25-7(a) states:

"No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive anything for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value."

Section 36-25-7(b) states:

"No public official or public employee shall solicit or receive anything for himself or herself or for a family member of the public employee or family member of the public official for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value."

CONFIDENTIAL INFORMATION – Section 36-25-8 states:

"No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business."

CONFLICT OF INTEREST – Section 36-25-9(c) states:

"No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest."

COMPENSATED REPRESENTATION – Section 36-25-10 states:

"If a public official or public employee, or family member of the public employee or family member of the public official, or a business with which the person is associated, represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, notice of the representation shall be given within 10 days after the first day of the appearance. Notice shall be filed with the commission in the manner prescribed by it. No member of the Legislature shall for a fee, reward, or other compensation represent any person, firm, or corporation before the Public Service Commission or the State Board of Adjustment."

PUBLIC CONTRACTS – Section 36-25-11 states:

"Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the commission. All such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed. A copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any business with which the person is associated shall be filed with the commission within 10 days after the contract has been entered into."

REVOLVING DOOR – Section 36-25-13 states:

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity."

"(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency."

"(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual."

"(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility

as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment."

LOBBYIST GIFTS – Section 36-25-5.1 states:

"(a) No lobbyist, subordinate of a lobbyist, or principal shall offer or provide a thing of value to a public employee or public official or to a family member of the public employee or family member of the public official; and no public employee or public official or family member of the public employee or family member of the public official shall solicit or receive a thing of value from a lobbyist, subordinate of a lobbyist, or principal. Notwithstanding the foregoing, a lobbyist, or principal may offer or provide and a public official, public employee, or candidate may solicit or receive items of de minimis value."

ETHICS TRAINING – Section 36-25-4.2 states:

"At the beginning of each legislative quadrennium, the State Ethics Commission shall provide for and administer training programs on the State Ethics Law for members of the Legislature, state constitutional officers, cabinet officers, executive staff, municipal mayors, council members and commissioners, county commissioners, and lobbyists...

Except as provided herein, attendance at any session of the training program shall be mandatory, except in the event the person is suffering a catastrophic illness...

All public employees required to file the Statement of Economic Interests required by Section 36-25-14, no later than May 1, 2011, shall participate in an online educational review of the Alabama Ethics Law provided on the official website of the commission. Employees hired after January 1, 2011, shall have 90 days to comply with this subsection."

ELECTRONIC DATABASE SEARCH – Section 36-25-4.3 states:

"The commission, by April 1, 2012, shall implement and maintain each of the following:

(1) A system for electronic filing of all statements, reports, registrations, and notices required by this chapter.

(2) An electronic database accessible to the public through an Internet website which provides at least the following capabilities:

a. Search and retrieval of all statements, reports, and other filings required by this chapter, excluding complaints made confidential by Section 36-25-4(b), by the name of the public official or public employee to which they pertain."

EMPLOYMENT/CONTRACT DISCLOSURE – Section 36-25-5.2 states:

“(b) Each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government, or who works for a company that receives 50% or more of its revenue from the state, shall notify the commission of such employment or contract within 30 days of beginning employment or within 30 days of the beginning of the contract. Additionally, each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government on August 14, 2011, shall notify the commission of such employment or contract by September 13, 2011.”

Definition of Economic Development Function is:

“Any function reasonably and directly related to the advancement of a specific, good-faith economic development or trade promotion project or objective.”

Definition of Educational Function is:

“A meeting, event, or activity held within the State of Alabama, or if the function is predominantly attended by participants from other states, held within the continental United States, which is organized around a formal program or agenda of educational or informational speeches, debates, panel discussions, or other presentations concerning matters within the scope of the participants’ official duties or other matters of public policy, including social services and community development policies, economic development or trade, ethics, government services or programs, or government operations, and which, taking into account the totality of the program or agenda, could not reasonably be perceived as a subterfuge for a purely social, recreational, or entertainment function.”

Definition of Widely Attended Event is:

“A gathering, dinner, reception, or other event of mutual interest to a number of parties at which it is reasonably expected that more than 12 individuals will attend and that individuals with a diversity of views or interest will be present.”

Definition of De Minimis is:

“A value of twenty-five dollars (\$25) or less per occasion and an aggregate of fifty dollars (\$50) or less in a calendar year from a single provider...” (This definition shall become effective on August 1, 2012, Act 2012-433.)

****DO'S and DON'T'S UNDER THE NEW ETHICS LAW****

I. DON'T'S

1. **Don't** ... use your official position to obtain personal gain for yourself or family member or any business with which you are associated. [Section 36-25-5(a)]
2. **Don't** ... as a member of a legislative body, vote for any legislation in which you know or should have known that you have a conflict of interest. [Section 36-25-5(b)]
3. **Don't** ... use or cause the use of equipment, facilities, time, materials, human labor, or other public property under your discretion or control for the private benefit or business benefit of you, any other person, or principal campaign committee (defined in Section 17-5-2), which would materially affect your financial interest. [Section 36-25-5(c)]
4. **Don't** ... solicit a "thing of value" from a subordinate or person or business with whom you directly inspect, regulate, or supervise in your official capacity other than in the ordinary course of business. [Section 36-25-5(e)]
5. **Don't** ... convert to personal use contributions to your inaugural or transitional fund. [Section 36-25-6]
6. **Don't** ... solicit or receive anything for yourself or a family member for the purpose of corruptly influencing official action. [Section 36-25-7(b)]
7. **Don't** ... solicit or receive any money in addition to that received in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which you are a member. [Section 36-25-7(d)]
8. **Don't** ... use or disclose confidential information gained in the course of or by reason of your position in any way that could result in financial gain, other than your regular salary, for yourself, a member of your family, or any other person or business. [Section 36-25-8]
9. **Don't** ... serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which you are associated. [Section 36-25-9(a)]
10. **Don't** ... you, a member of your household, or a business with which you are associated, enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds, unless the contract complies with Alabama competitive bidding laws and a copy of the contract is filed with the Ethics Commission within 10 days after the contract has been entered into. [Section 36-25-11]
11. **Don't** ... offer, give, solicit, or accept a "thing of value" to or from a member or employee of a governmental agency, board, or commission that regulates a business with which you are associated, other than in the ordinary course of business. [Section 36-25-12]

12. **Don't** ... serve for a fee as a lobbyist or otherwise represent clients, including your employer, before the board, agency, commission, department, or legislative body, of which you are a former member for a period of two years after you leave such membership, unless you are a former member of the Alabama judiciary who as an attorney represents a client in a legal, non- lobbying capacity. [Section 36-25-13(a)]
13. **Don't** ... enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which you were a member or employee for a period of two years after you leave the membership or employment of such governmental agency. [Section 36-25-13(c)]
14. **Don't** ... solicit or accept employment with a private business, corporation, partnership or individual which you formerly directly regulated, audited or investigated, within two years of your departure from such employment. [Section 36-25-13(d)]
15. **Don't** ... act as an attorney for any person other than yourself or the state, or aid, counsel, advise, consult or assist in representing any other person in a matter in which the state is a party, or has a direct and substantial interest, and in which you participated personally and substantially as a public official or was within your official responsibility, for a period of two years after termination of your state office. [Section 36-25-13(e)]
16. **Don't** ... solicit any lobbyist to give anything whether or not the thing solicited is a thing of value to any person or entity for any purpose other than a campaign contribution. [Section 36-25-23(b)]
17. **Don't** ... assume that you have no responsibilities under the Ethics Law even if you do not fit within the above categories, because, as shown below, any "person" can violate the Ethics Law for soliciting certain unlawful acts under the law.
18. **Don't** ... solicit a public official or public employee to use or cause to be used equipment, facilities, time, materials, human labor, or other public property for your private benefit or business benefit which would materially affect your financial interest. [Section 36-25-5(d)]
19. **Don't** ... offer or give to a public official or public employee or family member of such person anything for the purpose of corruptly influencing official action. [Section 36-25-7(a)]
20. **Don't** ... serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which you are associated, except certain persons in the real estate field and other state-licensed professionals serving on certain boards and commissions. [Sections 36-25-9(a) and (b)]
21. **Don't** ... knowingly or willfully make any false statement or misrepresentation of the facts to a member of the Legislative or Executive Branch for the purpose of influencing legislation. [Section 36-25-26(a)]

22. **Don't** ... knowingly cause a document containing a false statement to be received by a member of the Legislative or Executive Branch without notifying the member in writing of the truth for the purpose of influencing legislation. [Section 36-25-26(b)]
23. **Don't** ... accept a gift valued at more than \$25, or \$50 cumulatively, in a calendar year from any single provider. (Amount effective August 1, 2012, Act 2012-433)

II. DO'S

1. **Do** ... introduce bills, ordinances, resolutions, or other legislative matters, serve on committees, or make statements or take action in the exercise of your duties as a public official, unless prohibited under the Constitution of Alabama. [Section 36-25-5(b)]
2. **Do** ... know that as a member of a legislative body you may not vote for any legislation in which you know or should have known that you have a conflict of interest. [Section 36-25-5(b)]
3. **Do** ... file notice with the Ethics Commission if you, a member of your family, or a business with which you are associated represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, within 10 days of the first day of the appearance. [Section 36-25-10]
4. **Do** ... file with the Ethics Commission a copy of any contract that you, a member of your household, or a business with which you are associated enter into, which is to be paid in whole or in part out of state, county or municipal funds, within 10 days after the contract has been entered into. [Section 36-25-11]
5. **Do** ... file a statement of economic interests with the Ethics Commission no later than April 30 of each year (if appointed or a public employee, then file only if your base pay is greater than \$75,000 per year). [Section 36-25-14]
(Threshold of \$75,000 will become effective on August 1, 2012, Act 2012-509)
6. **Do** ... if you are an election official... notify the Ethics Commission within five days of your receipt of a declaration of candidacy or your nomination of a candidate notify the Commission of the name of the candidate and the date on which the person became a candidate or was nominated as a public official. [Section 36-25-15]
7. **Do** ... make it a point to know the new laws. As always, ignorance of the law is not a defense. If you are a private citizen who happens to be an attorney, your responsibilities are even greater. You have a responsibility to your clients who may be construed as public officials or public employees or lobbyists to know the law and advise them accordingly.
8. **Do** ... when you, or a business with which you are associated, represent for a fee any person before a regulatory body of the Executive Branch, report to the Ethics Commission the name of any adult child, parent, spouse, brother or sister who is a public official or public employee of that regulatory body of the Executive Branch. [Section 36-25-16(a)]

9. **Do ...** when you, or any business with which you are associated, enter into a contract for the sale of goods or services to the State of Alabama, any county or municipality and any of their respective agencies in amounts greater than \$7,500, report to the Ethics Commission the names of any adult child, parent, spouse, brother, or sister who is a public official or public employee of the agency or department with whom the contract is made. [Section 36-25-16(b)]
(Not applicable to any contract for the sale of goods or services awarded through a process of public notice and competitive bidding – [Section 36-25-16(c)])
10. **Do ...** if you are not a "lobbyist" under the Ethics Law and negotiate or attempt to negotiate a contract, sell or attempt to sell goods or services, engage or attempt to engage in a financial transaction with a public official or public employee in their official capacity and expend in excess of \$250 in a calendar day on such person, file a detailed quarterly report of the expenditure with the Ethics Commission. [Section 36-25-19(b)]
11. **Do ...** understand that all "lobbyist" reports filed pursuant to Sections 36-25-18 to 36-25-20, inclusive, are public records and shall be made available for public inspection via the Commission's website. [Sections 36-25-21 and 36-25-4.3]

Specifically Governmental Agency Heads

1. **Do ...** file reports with the Ethics Commission within ten days on any matters that come to your attention in your official capacity which constitute a violation of the Ethics Act. [Section 36-25-17(a)]
2. **Do ...** cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the Ethics Commission. [Section 36-25-17(b)]

QUESTIONS AND ANSWERS

QUESTION: Who must file a Statement of Economic Interests Form?

ANSWER: Section 36-25-14 states:

"(a) A statement of economic interests shall be completed and filed in accordance with this chapter with the commission...by each of the following:

- (1) All elected public officials at the state, county, or municipal level of government or their instrumentalities.
- (2) Any person appointed as a public official and any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is seventy-five thousand dollars (\$75,000) or more annually. (Effective August 1, 2012)
- (3) All candidates, simultaneously with the date he or she becomes a candidate as defined in Section 17-5-2, or the date the candidate files his or her qualifying papers, whichever comes first.
- (4) Members of the Alabama Ethics Commission; appointed members of boards and commissions having statewide jurisdiction (but excluding members of solely advisory boards).
- (5) All full-time nonmerit employees, other than those employed in maintenance, clerical, secretarial, or other similar positions.
- (6) Chief clerks and chief managers.
- (7) Chief county clerks and chief county managers.
- (8) Chief administrators.
- (9) Chief county administrators.
- (10) Any public official or public employee whose primary duty is to invest public funds.
- (11) Chief administrative officers of any political subdivision.
- (12) Chief and assistant county building inspectors.
- (13) Any county or municipal administrator with power to grant or deny land development permits.

- (14) Chief municipal clerks.
- (15) Chiefs of police.
- (16) Fire chiefs.
- (17) City and county school superintendents and school board members.
- (18) City and county school principals or administrators.
- (19) Purchasing or procurement agents having the authority to make any purchase.
- (20) Directors and assistant directors of state agencies.
- (21) Chief financial and accounting directors.
- (22) Chief grant coordinators.
- (23) Each employee of the Legislature or of agencies, including temporary committees and commissions established by the Legislature, other than those employed in maintenance, clerical, secretarial, or similar positions.
- (24) Each employee of the Judicial Branch of government, including active supernumerary district attorneys and judges, other than those employed in maintenance, clerical, secretarial or other similar positions.
- (25) Every full-time public employee serving as a supervisor." (Effective August 1, 2012, Act Number 2012-509)

QUESTION: When must a Statement of Economic Interests be filed?

ANSWER: A statement of economic interest must be filed with the commission no later than April 30 of each year covering the preceding calendar year.

QUESTION: What information is required to be included in the Statement of Economic Interests?

ANSWER: The statement of economic interest must include the name, residential address, business; name, address, and business of the living spouse, and dependents of the public official or public employee required to file, as well as the name of living adult children, the name of parents and siblings, name of living parents of the spouse.

The statement must also contain a list of occupations to which one-third or more of working time was given during the previous reporting year by the public official, public employee, or his or her spouse.

The statement must contain a total combined household income of the public official or public employee from sources such as salaries, fees, dividends, profits, commissions, and other compensation. The income is to be listed and broken down into categories depending on the amount.

If the public official or employee or his or her spouse has, during the last reporting year, engaged in a business which provides legal, accounting, medical or health related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services, then the filing party is required to report the number of clients of the business in each of several categories. These categories are set out in Section 36-25-14(b)(4) of the Ethics Law.

QUESTION: What is a Conflict of Interest?

ANSWER: Section 36-25-1 states:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

QUESTION: What is NOT a Conflict of Interest?

ANSWER: Section 36-25-1 states:

"(8)...A conflict of interest shall not include any of the following:

- a. A loan or financial transaction made or conducted in the ordinary course of business.
- b. An occasional nonpecuniary award publicly presented by an organization for performance of public service.
- c. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for the personal attendance of a public official or public employee at a convention or other meeting at which he or she is scheduled to meaningfully participate in connection with his or her official duties and for which attendance no reimbursement is made by the state.

- d. Any campaign contribution, including the purchase of tickets to, or advertisements in journals, for political or testimonial dinners, if the contribution is actually used for political purposes and is not given under circumstances from which it could reasonably be inferred that the purpose of the contribution is to substantially influence a public official in the performance of his or her official duties."

QUESTION: What is a Thing of Value?

ANSWER: Section 36-25-1 states:

"(33) THING OF VALUE. a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event, unsecured loan, other than those loans and forbearances made in the ordinary course of business, reward, promise of future employment, or honoraria or other item of monetary value."

QUESTION: What is NOT a Thing of Value?

ANSWER: Section 36-25-1(33) states:

- "b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:
1. A contribution under Chapter 5 of Title 17 or a contribution to an inaugural or transition committee.
 2. Anything given by a family member of the recipient under circumstances which make it clear that it is motivated by a family relationship.
 3. Anything given by a friend of the recipient under circumstances which make it clear that it is motivated by a friendship and not given because of the recipient's official position. Relevant factors include whether the friendship preexisted the recipient's status as a public employee, public official, or candidate and whether gifts have been previously exchanged between them.
 4. Greeting cards, items, services with little intrinsic value which are intended solely for presentation such as plaques, certificates, and trophies, promotional items commonly distributed to the general public, and items or services of de minimis value.
 5. Loans from banks and other financial institutions on terms generally available to the public.
 6. Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all government employees.

7. Rewards and prizes given to competitors in contests or events including random drawings, which are open to the public.
8. Anything that is paid for by a governmental entity or an entity created by a governmental entity to support the governmental entity or secured by a governmental entity under contract, except for tickets to a sporting event offered by an educational institution to anyone other than faculty, staff, or administration of the institution.
9. Anything for which the recipient pays full value.
10. Compensation and other benefits earned from a non-government employer, vendor, client, prospective employer, or other business relationship in the ordinary course of employment or non-governmental business activities under circumstances which make it clear that the thing is provided for reasons unrelated to the recipient's public service as a public official or public employee.
11. Any assistance provided or rendered in connection with a safety or a health emergency.
12. Payment of or reimbursement for actual and necessary transportation and lodging expenses, as well as waiver of registration fees and similar costs, to facilitate the attendance of a public official or public employee, and the spouse of the public official or public employee, at an educational function or widely attended event of which the person is a primary sponsor. This exclusion applies only if the public official or public employee meaningfully participates in the event as a speaker or a panel participant, by presenting information related to his or her agency or matters pending before his or her agency, or by performing a ceremonial function appropriate to his or her official position; or if the public official's or public employee's attendance at the event is appropriate to the performance of his or her official duties or representative function.
13. Payment of or reimbursement for actual and necessary transportation and lodging expenses to facilitate a public official's or public employee's participation in an economic development function.
14. Hospitality, meals, and other food and beverages provided to a public official or public employee, and the spouse of the public official or public employee, as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.

15. Any function or activity pre-certified by the Director of the Ethics Commission as a function that meets any of the above criteria.
16. Meals and other food and beverages provided to a public official or public employee in a setting other than any of the above functions not to exceed for a lobbyist twenty-five dollars (\$25) per meal with a limit of one hundred fifty dollars (\$150) per year; and not to exceed for a principal fifty dollars (\$50) per meal with a limit of two hundred fifty dollars (\$250) per year. Notwithstanding the lobbyist's limits herein shall not count against the principal's limits and likewise, the principal's limits shall not count against the lobbyist's limits.
17. Anything either (i) provided by an association or organization to which the state or, in the case of a local government official or employee, the local government pays annual dues as a membership requirement or (ii) provided by an association or organization to a public official who is a member of the association or organization and, as a result of his or her service to the association or organization, is deemed to be a public official. Further included in this exception is payment of reasonable compensation by a professional or local government association or corporation to a public official who is also an elected officer or director of the professional or local government association or corporation for services actually provided to the association or corporation in his or her capacity as an officer or director.
18. Any benefit received as a discount on accommodations, when the discount is given to the public official because the public official is a member of an organization or association whose entire membership receives the discount."

QUESTION: Who may initiate a complaint with the Ethics Commission?

ANSWER: Section 36-25-4 states:

"(c) ...The complaint may only be filed by a person who has or persons who have credible and verifiable information supporting the allegations contained in the complaint. A complainant may not file a complaint for another person or persons in order to circumvent this subsection... A complaint may be initiated by a vote of four members of the commission.."

QUESTION: What is Personal Gain?

ANSWER: Section 36-25-5 states:

"...Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

QUESTION: What is an advisory opinion, and who may rely on an advisory opinion?

ANSWER: An advisory opinion is the commission's interpretation of a specific or hypothetical set of facts based on the law. Section 36-25-4 states:

"(9) ... Such advisory opinions shall be adopted by a majority vote of the members of the commission present and shall be effective and deemed valid until expressly overruled or altered by the commission or a court of competent jurisdiction. The written advisory opinions of the commission shall protect the person at whose request the opinion was issued and any other person reasonably relying, in good faith, on the advisory opinion in a materially like circumstance from liability to the state, a county, or a municipal subdivision of the state because of any action performed or action refrained from in reliance of the advisory opinion. Nothing in this section shall be deemed to protect any person relying on the advisory opinion if the reliance is not in good faith, is not reasonable, is not in a materially like circumstance. The commission may impose reasonable charges for publication of the advisory opinions and monies shall be collected, deposited, dispensed, or retained as provided herein."

QUESTION: What are the penalties for violation of the Ethics Law?

ANSWER: Section 36-25-14 states:

"(e) A person who intentionally violates any financial disclosure filing requirement of this chapter shall be subject to administrative fines imposed by the commission, or shall, upon conviction, be guilty of a Class A misdemeanor, or both.

Any person who unintentionally neglects to include any information relating to the financial disclosure filing requirements of this chapter shall have 90 days to file an amended statement of economic interests without penalty."

Section 36-25-26 states:

"No person, for the purpose of influencing legislation, may do either of the following:

(1) Knowingly or willfully make any false statement or misrepresentation of the facts to a member of the Legislative or Executive Branch.

(2) Knowing a document to contain a false statement, cause a copy of the document to be received by a member of the Legislative or Executive Branch without notifying the member in writing of the truth."

Section 36-25-27 states:

"(a)(1) Except as otherwise provided, any person subject to this chapter who intentionally violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class B felony."

"(4) Any person who knowingly makes or transmits a false report or complaint pursuant to this chapter shall, upon conviction, be guilty of a Class A misdemeanor and shall be liable for the actual legal expenses incurred by the respondent against whom the false report or complaint was filed.

(5) Any person who makes false statements to an employee of the commission or to the commission itself pursuant to this chapter without reason to believe the accuracy of the statements shall, upon conviction, be guilty of a Class A misdemeanor.

(6) Any person subject to this chapter who intentionally violates this chapter relating to secrecy shall, upon conviction, be guilty of a Class C felony.

(7) Any person subject to this chapter who intentionally fails to disclose information required by this chapter shall, upon conviction, be guilty of a Class A misdemeanor."

QUESTION: If a public employee files a complaint with the Ethics Commission against a public official or employer in the public sector, are there any measures to safeguard the employee making the complaint?

ANSWER: Yes. Section 36-25-24 states:

"(a) A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee's compensation, terms, conditions, or privileges of employment based on the employee's reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation."

QUESTION: If a public employee makes a false complaint against an employer or a complaint that the employee knows lacks merit, is there any recourse on the part of the employer?

ANSWER: Yes. Section 36-25-24 states:

"(b) Nothing in this chapter shall be construed in any manner to prevent or prohibit or otherwise limit a supervisor from disciplining, discharging, transferring, or otherwise affecting the terms and conditions of a public employee's employment so long as the disciplinary action does not result from or is in no other manner connected with the public employee's filing a complaint with the commission, giving truthful statements, and truthfully testifying."

QUESTION: Are there any administrative remedies available under the Ethics Law?

ANSWER: Yes. Section 36-25-27 states:

"(b) The commission if petitioned or agreed to by a respondent and the Attorney General or district attorney having jurisdiction, by unanimous vote of the members present may administratively resolve a complaint filed pursuant to this chapter for minor violations. The commission may levy an administrative penalty not to exceed one thousand dollars (\$1,000) for any minor violation of this chapter including, but not limited to, the failure to timely file a complete and correct Statement of Economic Interests. The commission shall, in addition to any administrative penalty, order restitution in the amount of any economic loss to the state, county, and municipal governments and their instrumentalities and such restitution shall when collected be paid by the commission, to the entity having the economic loss."

QUESTION: Who is charged with enforcing the Ethics Law?

ANSWER: Section 36-25-27 states:

"(c) The enforcement of this chapter shall be vested in the commission; provided however, nothing in this chapter shall be deemed to limit or otherwise prohibit the Attorney General or the District Attorney for the appropriate jurisdiction from enforcing any provision of this chapter as they deem appropriate."

QUESTION: What is the statute of limitations under the Ethics law?

ANSWER: Section 36-25-27 states:

"(g) Any felony prosecution brought pursuant to this chapter shall be commenced within four years after the commission of the offense.

(h) Any misdemeanor prosecution brought pursuant to this chapter shall be commenced within two years after the commission of the offense."

QUESTION: Am I required to receive training on the Ethics Law?

ANSWER: Section 36-25-4.2 states:

“At the beginning of each legislative quadrennium, the State Ethics Commission shall provide for and administer training programs on the State Ethics Law for members of the Legislature, state constitutional officers, cabinet officers, executive staff, municipal mayors, council members and commissioners, county commissioners, and lobbyists...

Except as provided herein, attendance at any session of the training program shall be mandatory, except in the event the person is suffering a catastrophic illness...

All public employees required to file the Statement of Economic Interests required by Section 36-25-14, no later than May 1, 2011, shall participate in an online educational review of the Alabama Ethics Law provided on the official website of the commission. Employees hired after January 1, 2011, shall have 90 days to comply with this subsection.”

QUESTION: Is information filed with the Ethics Commission made available via the Internet?

ANSWER: Yes. Section 36-25-4.3 states:

“The commission, by April 1, 2012, shall implement and maintain each of the following:

(1) A system for electronic filing of all statements, reports, registrations, and notices required by this chapter.

(2) An electronic database accessible to the public through an Internet website which provides at least the following capabilities:

- a. Search and retrieval of all statements, reports, and other filings required by this chapter, excluding complaints made confidential by Section 36-25-4(b), by the name of the public official or public employee to which they pertain.”

QUESTION: Must I file public disclosure information with the Ethics Commission regarding state or federal employment or contracts involving me or my spouse?

ANSWER: Yes. Section 36-25-5.2 states:

“(b) Each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government, or who works for a company that receives 50% or more of its revenue from the state, shall notify the commission of such employment or

contract within 30 days of beginning employment or within 30 days of the beginning of the contract. Additionally, each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government on August 14, 2011 shall notify the commission of such employment or contract by September 13, 2011.”

As previously stated, these guidelines are intended to serve merely as an overview and not as a comprehensive review of the Ethics Law. If you have questions that were not answered or concerns that were not addressed by the guidelines, please review our website at: www.ethics.alabama.gov. On our website you will find the entire Ethics Law, all forms required to be filed under the statute and every advisory opinion rendered since 1995. If you have questions beyond those resources, please contact the Ethics Commission using the contact information below:

Alabama Ethics Commission
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100 North Union Street, Suite 104
Post Office Box 4840 (36103-4840)
Montgomery, Alabama 36104
Telephone: 334.242.2997
FAX: 334.242.0248
Email: info@ethics.alabama.gov
Website: www.ethics.alabama.gov

Guidelines for Public Officials and Employees was updated and edited to incorporate the 2010, 2011 and 2012 Amendments to the Ethics Law by James L. Sumner, Jr., Director, July 2012.

APPENDIX FIVE

Open Meetings Act (i.e. "Sunshine Law")

ALABAMA OPEN MEETINGS ACT (i.e. "SUNSHINE LAW")

Act No. 2005-40

Effective date: October 1, 2005

On March 15, 2005, the Alabama Open Meetings Act was enacted which repealed the prior Alabama Sunshine Law (**§13A-14-2. Executive or secret sessions of certain boards**).

TITLE 13A – CRIMINAL CODE CHAPTER 14 – MISCELLANEOUS OFFENSES

§13A-14-2. Executive or secret sessions of certain boards.

(a) No executive or secret sessions shall be held by any of the following named boards, commissions or courts of Alabama, namely: Alabama Public Service Commission; school commissions of Alabama; board of adjustment; state or county tax commissions; any county commission, any city commission or municipal council; or any other body, board or commission in the state charged with the duty of disbursing any funds belonging to the state, county or municipality, or board, body or commission to which is delegated any legislative or judicial function; except, that executive or secret sessions may be held by any of the above named boards or commissions when the character or good name of a woman or man is involved.

(b) Any person or persons violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than \$10.00 nor more than \$500.00. Any person who remains in attendance upon any meeting of any of the above named boards or bodies which is being held in secret or executive session shall be deemed guilty of violating the provisions of this section.

(Acts 1915, No. 278, p. 314; Code 1923, §§5254, 5255; Code 1940, T. 14, §§393, 394; Code 1975, §13-5-1.)

Section 1 of the Alabama Open Meetings Act (2005-40) sets forth the general rule of law for Open Meetings:

"The Deliberative Process of governmental bodies shall be open to the public during meetings [as defined by this Act]. Except for executive sessions . . . or as otherwise expressly provided by other federal or state statutes, all meetings of a governmental body shall be open to the public and no meetings of a governmental body may be held without providing notice [as defined by this Act]."

No executive sessions are required by this Act to be held under any circumstances. Electronic communications shall not be utilized to circumvent any provisions of this Act."

Important aspects of the Open Meetings Act (OMA) include:

1. All meetings in which government bodies meet to deliberate must be open to the public.
2. Under the OMA, the only exception to an Open Meeting is an "Executive Session":
 - (a) Executive Sessions must be noted in the public meeting and can only be entered into for a limited number of statutorily defined reasons.
 - (b) Some pre-existing laws require otherwise "Open Meetings" to be discussed in private (for example, laws that forbid the disclosure of statutorily privileged information).
 - (c) Executive Sessions are never required by the OMA, although they should — if not must — be called for in the situations discussed above in subsection (b).
3. No meeting — even an emergency meeting — can properly be held under the OMA without the proper notice.
4. Electronic communications, such as teleconferencing, cannot be used to circumvent the OMA.

Notable changes and additions of the OMA to prior Alabama Sunshine Law include:

1. **Committees and Subcommittees:** The OMA covers meetings of committees and subcommittees of a government body.
2. **Job Performance:** The "Character and Good Name" exception to the prior Sunshine Law has been narrowed, and "Job Performance" discussions of all public officials and clearly defined managerial level public employees must be conducted in public.
3. **No Secret Ballots:** The OMA prevents all voting by secret ballots.
4. **Quorum:** The counting of persons towards a quorum now includes elected/appointed persons who have not officially taken office in an effort to prevent "pre-swearing-in" meetings.
5. **Notice:** Clearly defined deadlines for notice of meetings have been established.

Generally, the notice requirements are seven days for regular meetings, one day for special meetings, and one hour for emergency meetings.

6. **Recording:** The OMA sets forth guidelines for what must be recorded by the body during an open meeting.
7. **Electronic Communications:** The OMA prevents the use of electronic media and communications to circumvent the goal of an open meeting.
8. **Taping:** All open meetings can be (openly) taped by the media.
9. **Penalties and Immunity:** The OMA prescribes civil -- rather than criminal -- penalties for violations of the OMA. Officials acting within the parameters of the OMA will be immune from liability for their statements made during the meetings.

A full version of the OMA can be found at

<https://www.openmeetings.alabama.gov/generalpublic/publicdefault.aspx>.

Questions regarding the application of the OMA should be referred to local legal counsel or the Attorney General's Office (<http://www.ago.state.al.us/>).

APPENDIX SIX

Guidelines and Considerations for Developing a Public Library Internet Use Policy

Intellectual Freedom's Meaning and Scope

Libraries are a major information source in our society for access to the larger world of human expression. For some, they are the only available access point. Libraries connect individuals with the ideas, information, and images they seek. Libraries that raise barriers to access damage their credibility with their users.

By providing information across the spectrum of human interests, and making them available and accessible to anyone who wants them, libraries allow individuals to exercise their First Amendment right to seek and receive all types of expression, from all points of view. Materials in any given library cover the spectrum of human experience and thought, even those that some people may consider false, offensive, or dangerous.

In the millions of Web sites available on the Internet, there are some—often loosely called “pornography”—that parents, or adults generally, do not want children to see. A very small fraction of those sexually explicit materials is actual obscenity or child pornography, which are not constitutionally protected. The rest, like the overwhelming majority of materials on the Internet, is protected by the First Amendment.

Obscenity and child pornography are illegal. Federal and state statutes, the latter varying slightly depending on the jurisdiction, proscribe such materials. The U.S. Supreme Court has settled most questions about what obscenity and child pornography statutes are constitutionally sound.

According to the Court:

Obscenity must be determined using a three-part test. To be obscene, (1) the average person, applying contemporary community standards, must find that the work, taken as a whole, appeals to prurient interests; (2) the work must depict or describe, in a patently offensive way, sexual conduct as specified in the applicable statutes; and (3) the work, taken as a whole, must lack serious literary, artistic, political, or scientific value.

Child pornography may be determined using a slightly less rigorous test. To be child pornography, the work must involve depictions of sexual conduct specified in the applicable statutes and use images of children below a specified age.

Many states and some localities have “harmful to minors” laws. These laws regulate free speech with respect to minors, typically forbidding the display or dissemination of certain sexually explicit materials to children, as further specified in the laws.

According to the U.S. Supreme Court:

Materials "harmful to minors" include descriptions or representations of nudity, sexual conduct, or sexual excitement that appeal to the prurient, shameful, or morbid interest of minors; are patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and lack serious literary, artistic, political, or scientific value for minors.

Knowing what materials are actually obscenity or child pornography is difficult, as is knowing, when minors are involved, and what materials are actually "harmful to minors." The applicable statutes and laws, together with the written decisions of courts that have applied them in actual cases, are the only official guides. Libraries and librarians are not in a position to make those decisions for library users or for citizens generally. Only courts have constitutional authority to determine, in accordance with due process, what materials are obscenity, child pornography, or "harmful to minors."

Obscenity and child pornography statutes apply to materials on the Internet; such materials are currently being regulated there. The applicability of particular "harmful to minors" laws to materials on the Internet is unsettled, however. Because of the uncertainty, various federal and state legislative proposals are pending specifically to "protect" children from sexually explicit materials on the Internet.

Intellectual Freedom's First Amendment Foundations

Courts have held that the public library is a "limited public forum." "Limited" means it is a place for access to free and open communication, subject to reasonable restrictions as to the time, place, and manner for doing so. As with any public forum the government has opened for people to use for communication, the First Amendment protects people's right to use the forum without the government interfering with what is communicated there. This is the very essence of the Constitution's guarantee of freedom of speech.

In a public forum, the government is prohibited from exercising discrimination with respect to the content of communication, unless the government demonstrates that the restriction is necessary to achieve a "compelling" government interest and there is no less restrictive alternative for achieving that interest. This means public libraries cannot exclude books about abortion just because they discuss the subject of abortion. That would be discrimination with respect to content. Books can be selected on the basis of content-neutral criteria such as the quality of the writing, their position on best-seller lists, the presence or absence of other materials in the collection related to certain time periods or historical figures, and the like; they can be deselected on the basis of wear and tear, the availability of more current materials, and similar criteria. Libraries, however, cannot deliberately suppress the record of human thought on a particular subject or topic.

Internet filters are mechanisms designed to discriminate with respect to the content of communication. Filters are incapable of doing what computer software engineers have

designed them to do—typically, to block only “hard-core pornography” and other “offensive” sites on the Internet. But even at their hypothetical best, mechanisms to screen and block content on the Internet exclude far more than just obscenity and child pornography. They exclude a wide range of sexually explicit materials protected under the Constitution. For instance, materials that depict homosexual relations, variations on conventional heterosexuality, and even nudity and heterosexual relations channeled toward reproduction and family life represent distinct subjects or topics. Their suppression is discrimination with respect to the content of communication.

The rapid expansion of Web sites on the Internet and the sheer impossibility of keeping up with this growth are factors that limit the reliability of filtering devices. Neither humans nor machines are capable of processing and reviewing everything available, with the result that filters will block some materials while other equivalent materials will remain unblocked.

Moreover, there is legal precedent that suggests that government agencies like libraries cannot adopt and enforce private rating schemes. When libraries restrict access based on content ratings developed and applied by a filtering vendor, sometimes with no knowledge of how these ratings are applied or what sites have been restricted, they are delegating their public responsibility to a private agency.

Filtering and other means to block content on the Internet only can be utilized if the government—in this case, the public library—can demonstrate both that the need is compelling and that the method chosen to achieve the purpose is the least restrictive method possible. The lawsuit brought by the American Library Association—American Library Ass’n v. United States Department of Justice, consolidated with and decided by the U.S. Supreme Court under the name of [Reno v. American Civil Liberties Union](#)—invalidated the provisions of the Communications Decency Act of 1996 that criminalized “indecent” and “patently offensive” electronic communication. The Court did so on the ground that those provisions, suppressing speech addressed to adults, reduced the entire population only to what is fit for children. It recognized “the governmental interest in protecting children from harmful materials,” but found that less restrictive means were available to achieve that interest. In the context of limiting or avoiding children’s exposure to possibly “harmful” materials on library computers with Internet access, less restrictive means than the use of filters are available.

It is well documented that filtering software is over-inclusive, blocking not only sites that may have sexual content, strong language, or unconventional ideas considered harmful or offensive—but also sites having no controversial content whatsoever. This over-inclusive blocking violates the First Amendment rights of youth and children, as well as adults, to access constitutionally protected materials. In the context of limiting or avoiding children’s exposure to possibly “harmful” materials on library computers with Internet access, less restrictive means than the use of filters are available.

Adults’ reading cannot be reduced to the level of what is fit for children, and the public library, therefore, cannot restrict them to Internet-access computers with filtering software. Young adults and children also have First Amendment rights, although such rights are variable,

depending on the age of the minor and other factors, including maturity, not yet settled in the law. Even though minors' First Amendment rights are not as extensive as those of adults, the public library cannot restrict them solely to computers with filtering software. This is why libraries advocate that parents guide their children's use of the Internet. Only unfiltered Internet access accommodates both parental guidance and sensitive recognition of the First Amendment rights of young people.

Librarians and the strength of their commitment to professional standards and values assure that, at least through the public library, the least restrictive means available to achieve the government's interest in protecting children will be implemented.

Specific Internet Use Policy Provisions

The position of the American Library Association is set forth in several documents adopted by the Council, its governing body. The [Interpretation of the Library Bill of Rights](#) entitled [Access to Electronic Information, Services, and Networks](#) calls for free and unfettered access to the Internet for any library user, regardless of age. The [Resolution on the Use of Filtering Software in Libraries](#) and the [Statement on Library Use of Filtering Software](#) reiterate the U.S. Supreme Court's declaration in [Reno v. American Civil Liberties Union](#) that the Internet is a forum of free expression deserving full constitutional protection. The Resolution and Statement condemn as a violation of the [Library Bill of Rights](#) any use of filtering software by libraries that blocks access to constitutionally protected speech.

Consistent with these policies, which collectively embody the library profession's understanding of First Amendment constraints on library Internet use, the [Intellectual Freedom Committee](#) offers guidelines to public libraries, as follows:

- Adopt a comprehensive, written Internet use policy that, among other things should:
 - sets forth reasonable time, place, and manner restrictions;
 - expressly prohibit any use of library equipment to access material that is obscene, child pornography, or "harmful to minors" (consistent with any applicable state or local law);
 - provide for the privacy of users with respect to public terminals; and
 - protect the confidentiality of records, electronic or otherwise, that identify individual users and link them to search strategies, sites accessed, or other specific data about the information they retrieved or sought to retrieve.
- Communicate the relevant policies for use of Internet-access computers to all library users, and include the parents of children who may use the library without direct parental supervision. Do so in a clear and conspicuous manner sufficient to alert library users that filtering software is not utilized.
- Post notices at all Internet-access computers that use of library equipment to access the illegal materials specified in the Internet use policy is prohibited.
- Offer a variety of programs, at convenient times, to educate library users, including parents and children, on the use of the Internet. Publicize them widely.

- Offer library users recommended Internet sites. For youth and children, especially, offer them, according to age group, direct links to sites with educational and other types of material best suited to their typical needs and interests (e.g., the American Library Association's [700+ Great Sites for Kids and the Adults Who Care About Them](#) and its Internet guide for young adults, [TEENHoopla](#)).

Samples of Internet Use Policies are located on the Office for Intellectual Freedom's Web page, "Internet Use Policies," at <http://www.ala.org/offices/oif/ifissues/issuesrelatedlinks/internetusepolicies>.

Answers to Objections

Various metaphors have been offered, both by opponents of free and open access in libraries, as well as proponents, to explain the use of the Internet in libraries and the impact of filtering software. Two metaphors offered by opponents and the arguments built around them deserve close examination:

The "selection" metaphor. Filtering Internet resources is tantamount to selecting materials in a library. Since libraries, opponents of unfettered Internet access say, are not constrained to select any particular materials for their collections, filtering is constitutionally unobjectionable.

This metaphor is faulty. Filtering the Internet is not selecting materials. The only selection decisions involved in use of the Internet in libraries are those as to whether, for instance, the World Wide Web will be offered with other tools based on special Internet protocols, e.g., ftp (file transfer protocol) or telnet. Selecting the World Wide Web for the library means selecting the entire resource, just as selecting Time means selecting the entire magazine. A library cannot select Time and then decide to redact or rip out the pages constituting the "American Scene" feature or the "Washington Diary." That would be censorship. It is the same with the World Wide Web. It is not an accident of terminology that the Web consists of a vast number of Web pages and that browser software permits the user to bookmark those that are interesting or useful.

The "interlibrary loan" metaphor. Internet access is tantamount to interlibrary loan service. Typing a Web site URL into a browser's location entry box and pressing the "Enter" key amounts to an interlibrary loan request that the library, opponents of unfettered access say, is free to deny.

This metaphor is faulty, too. Far more frequently than typing and entering URLs, surfers of the World Wide Web click on hot links for automatic access to the Web pages they wish to see. More significantly, absent financial constraints, any public library true to its function as a public forum makes available to users any constitutionally protected material, whether that means locating the material within the library itself or obtaining it elsewhere through interlibrary loan.

As articulated by the U.S. Supreme Court in the American Library Association case culminating in Reno v. American Civil Liberties Union, the Internet represents a vast library. It is a virtual

library already present within any public library that selects Internet access. The fundamental First Amendment question is: given the free availability of a near-infinite range of content on the Internet, can the library ever deliberately deprive a library user of the constitutionally protected materials he or she seeks? The emphatic answer of the librarian informed by principles of Intellectual Freedom is: absolutely not.

But what about obscenity and child pornography, as well as, when minors are involved, materials "harmful to minors"?

- As for obscenity and child pornography, prosecutors and police have adequate tools to enforce criminal laws. Libraries are not a component of law enforcement efforts naturally directed toward the source, i.e., the publishers, of such material.
- As for materials "harmful to minors," it is true that, in some jurisdictions, libraries that choose not to utilize filtering or other means to block content on the Internet may find themselves in a "bind"; under some circumstances, they may be subject to liability under "harmful to minors" laws.

Libraries should be cautioned that laws differ from state to state, and they should seek advice on laws applicable in their jurisdiction from counsel versed in First Amendment principles. In particular, they should determine whether any "harmful to minors" law applies to materials available at the library, either through Internet access or otherwise. They should specifically inquire whether they are expressly exempt from the particular "harmful to minors" laws in their jurisdiction, as libraries frequently are.

Moreover, libraries should be aware that the legal framework and context of regulation is rapidly changing; federal, state, and local governments have begun to legislate specifically in the area of library Internet use. Libraries should actively oppose proposed legislation that exposes them to new liabilities and negatively impacts Intellectual Freedom. As always, they should be vigilant about new regulations of free speech.

For information on filtering and other legal issues affecting libraries, see the Freedom to Read Foundation's Web page, "Memoranda to Freedom to Read Foundation from Jenner & Block" (its legal counsel) at www.ftrf.org/memos_jb.html, and the Office for Intellectual Freedom's Web page, "Filters and Filtering," at www.ala.org/alaorg/oif/filtersandfiltering.html.

<http://www.ala.org/advocacy/banned/challengeslibrarymaterials/essentialpreparation/guidelinesinternetuse>

Issued June 1998; rev. November 2000
American Library Association
Permission is granted to libraries to reproduce this guideline.

APPENDIX SEVEN

North Shelby Library Internet Access and Procedures Policy A Sample Policy for Alabama Libraries

The mission of North Shelby Library is to provide free, open and equal access to ideas and information to all members of the community. The Library cannot control the resources on the Internet. The Internet is forever changing. Users must understand it is impossible for the Library to prevent access to all resources that might be objectionable to some people. Users assume all responsibility for selections and information found on the Internet. In the case of minor children, the responsibility falls to the parent and / or legal guardian. It shall be the responsibility of parents and guardians, not North Shelby Library staff, to determine whether to place restrictions on their children while on-line.

Please Note:

A. ***The North Shelby Library and all Shelby County libraries will follow and strictly enforce Alabama law 13A-12-200.3 that specifically prohibits the dissemination or display of obscene matter.***

B. The North Shelby Library Board ascribes to the American Library Association's position on the use of filtering software as outlined in Resolution on the Use of Filtering Software in Libraries, adopted by the ALA Council, July 2, 1997.

Acceptable Use Policy:

1. Access to Internet web sites through the North Shelby Library is a privilege and offered on a voluntary basis. ***Library members who wish to use this resource must agree to follow library rules. The North Shelby Library holds the right to deny access to the Internet and all computer equipment to anyone who does not meet the requirements set forth in this policy and or to anyone who violates the policy.***
2. ***Computer users must sign in each time they use network computers.***
3. All users must be registered Patrons of the Library in good standing. Each user must possess a Shelby County library card in good standing when registering for computer use. This information will be verified by a staff member each time the user signs in to use of the computer center.
4. All minors (17 years of age or younger) must register as members of the library and a parent/legal guardian must sign giving permission for the minor to use the Internet services at the North Shelby Library.
5. The user signing in must be the actual user; you may not use another person's library card or sign in for someone else.

6. Users may not access chat rooms or other "real time" discussion groups or have email accounts on the Library's network.
7. Attempting to access obscene, pornographic, or explicit web sites is not only inconsiderate of other library patrons; it is inappropriate at the North Shelby Library and is illegal. The Library follows and strictly enforces Alabama law 13A-12-200.3 that specifically prohibits the dissemination or public display of obscene matter. Patron privileges will be suspended if users are witnessed accessing such materials. Restoration of privileges will be determined by the Library Board.
8. Computer users may not utilize them to transmit any communication (such as email) where the meaning of the message would likely be highly offensive to the recipient(s), or if the messages' very transmission or distribution violates any applicable law or regulation.
9. Downloading of files or software from the Internet is not allowed
10. Computer users must not attempt to alter any network software or hardware setting, attempt to breach computer security, or damage equipment in any way.
11. No user will remove or alter any copyright notice contained in any materials obtained through the Internet connection.
12. Users will be responsible for paying any and all fees accrued while on-line. Each user is responsible for the cost of printouts.
13. No personal diskettes from outside the building are allowed to be used in the network computers. Diskettes are available for purchase at the Library. No diskettes can be taken out of the building and brought back for use in the Computer Center equipment.
14. Workstations are available to patrons needing to access, print, and/or save to files on their own diskettes. These computers are not attached to the network or the Internet.
15. No food or drinks at the computers.
16. Library staff will assist with computers as time allows, but cannot offer detailed personal instruction without a scheduled appointment.

I have read and understand this Internet Access and Procedures Policy. As a user of the Internet I agree to abide by the established policies and procedures and waive any rights to this privilege if at any time it is found that I have abused them.

APPENDIX EIGHT

Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

- I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
- II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
- III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
- IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
- V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
- VI. Libraries that make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Adopted June 18, 1948

Amended February 2, 1961, and January 23, 1980, inclusion of "age" reaffirmed January 23, 1996, by the ALA Council.

<http://www.ala.org/ala/aboutala/offices/oif/statementspols/statementsif/librarybillrights.cfm>

APPENDIX NINE

Freedom to Read Statement

The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in various parts of the country are working to remove or limit access to reading materials, to censor content in schools, to label "controversial" views, to distribute lists of "objectionable" books or authors, and to purge libraries. These actions apparently rise from a view that our national tradition of free expression is no longer valid; that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals. We, as individuals devoted to reading and as librarians and publishers responsible for disseminating ideas, wish to assert the public interest in the preservation of the freedom to read.

Most attempts at suppression rest on a denial of the fundamental premise of democracy: that the ordinary individual, by exercising critical judgment, will select the good and reject the bad. We trust Americans to recognize propaganda and misinformation, and to make their own decisions about what they read and believe. We do not believe they are prepared to sacrifice their heritage of a free press in order to be "protected" against what others think may be bad for them. We believe they still favor free enterprise in ideas and expression.

These efforts at suppression are related to a larger pattern of pressures being brought against education, the press, art and images, films, broadcast media, and the Internet. The problem is not only one of actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials.

Such pressure toward conformity is perhaps natural to a time of accelerated change. And yet suppression is never more dangerous than in such a time of social tension. Freedom has given the United States the elasticity to endure strain. Freedom keeps open the path of novel and creative solutions, and enables change to come by choice. Every silencing of a heresy, every enforcement of an orthodoxy, diminishes the toughness and resilience of our society and leaves it the less able to deal with controversy and difference.

Now as always in our history, reading is among our greatest freedoms. The freedom to read and write is almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. The written word is the natural medium for the new idea and the untried voice from which come the original contributions to social growth. It is essential to the extended discussion that serious thought requires, and to the accumulation of knowledge and ideas into organized collections.

We believe that free communication is essential to the preservation of a free society and a creative culture. We believe that these pressures toward conformity present the danger of limiting the range and variety of inquiry and expression on which our democracy and our culture depend. We believe that every American community must jealously guard the freedom

to publish and to circulate, in order to preserve its own freedom to read. We believe that publishers and librarians have a profound responsibility to give validity to that freedom to read by making it possible for the readers to choose freely from a variety of offerings.

The freedom to read is guaranteed by the Constitution. Those with faith in free people will stand firm on these constitutional guarantees of essential rights and will exercise the responsibilities that accompany these rights.

We therefore affirm these propositions:

1. It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority.

Creative thought is by definition new, and what is new is different. The bearer of every new thought is a rebel until that idea is refined and tested. Totalitarian systems attempt to maintain themselves in power by the ruthless suppression of any concept that challenges the established orthodoxy. The power of a democratic system to adapt to change is vastly strengthened by the freedom of its citizens to choose widely from among conflicting opinions offered freely to them. To stifle every nonconformist idea at birth would mark the end of the democratic process. Furthermore, only through the constant activity of weighing and selecting can the democratic mind attain the strength demanded by times like these. We need to know not only what we believe but why we believe it.

2. Publishers, librarians, and booksellers do not need to endorse every idea or presentation they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what should be published or circulated.

Publishers and librarians serve the educational process by helping to make available knowledge and ideas required for the growth of the mind and the increase of learning. They do not foster education by imposing as mentors the patterns of their own thought. The people should have the freedom to read and consider a broader range of ideas than those that may be held by any single librarian or publisher or government or church. It is wrong that what one can read should be confined to what another thinks proper.

3. It is contrary to the public interest for publishers or librarians to bar access to writings on the basis of the personal history or political affiliations of the author.

No art or literature can flourish if it is to be measured by the political views or private lives of its creators. No society of free people can flourish that draws up lists of writers to whom it will not listen, whatever they may have to say.

4. There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.

To some, much of modern expression is shocking. But is not much of life itself shocking? We cut off literature at the source if we prevent writers from dealing with the stuff of life. Parents and teachers have a responsibility to prepare the young to meet the diversity of experiences in life to which they will be exposed, as they have a responsibility to help them learn to think critically for themselves. These are affirmative responsibilities, not to be discharged simply by preventing them from reading works for which they are not yet prepared. In these matters values differ, and values cannot be legislated; nor can machinery be devised that will suit the demands of one group without limiting the freedom of others.

5. It is not in the public interest to force a reader to accept the prejudgment of a label characterizing any expression or its author as subversive or dangerous.

The ideal of labeling presupposes the existence of individuals or groups with wisdom to determine by authority what is good or bad for others. It presupposes that individuals must be directed in making up their minds about the ideas they examine. But Americans do not need others to do their thinking for them.

6. It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large; and by the government whenever it seeks to reduce or deny public access to public information.

It is inevitable in the give and take of the democratic process that the political, the moral, or the aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society individuals are free to determine for themselves what they wish to read, and each group is free to determine what it will recommend to its freely associated members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is no freedom if it is accorded only to the accepted and the inoffensive. Further, democratic societies are more safe, free, and creative when the free flow of public information is not restricted by governmental prerogative or self-censorship.

7. It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, they can demonstrate that the answer to a "bad" book is a good one, the answer to a "bad" idea is a good one.

The freedom to read is of little consequence when the reader cannot obtain matter fit for that reader's purpose. What is needed is not only the absence of restraint, but the positive provision of opportunity for the people to read the best that has been thought

and said. Books are the major channel by which the intellectual inheritance is handed down, and the principal means of its testing and growth. The defense of the freedom to read requires of all publishers and librarians the utmost of their faculties, and deserves of all Americans the fullest of their support.

We state these propositions neither lightly nor as easy generalizations. We here stake out a lofty claim for the value of the written word. We do so because we believe that it is possessed of enormous variety and usefulness, worthy of cherishing and keeping free. We realize that the application of these propositions may mean the dissemination of ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is unimportant. We believe rather that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

This statement was originally issued in May of 1953 by the Westchester Conference of the American Library Association and the American Book Publishers Council, which in 1970 consolidated with the American Educational Publishers Institute to become the Association of American Publishers.

Adopted June 25, 1953, by the ALA Council and the AAP Freedom to Read Committee

Amended January 28, 1972; January 16, 1991; July 12, 2000; June 30, 2004

<http://www.ifmanual.org/ftstatement>

A Joint Statement by:

[American Library Association](#)
[Association of American Publishers](#)

Subsequently endorsed by:

[American Booksellers Foundation for Free Expression](#)
[The Association of American University Presses, Inc.](#)
[The Children's Book Council](#)
[Freedom to Read Foundation](#)
[National Association of College Stores](#)
[National Coalition Against Censorship](#)
[National Council of Teachers of English](#)
[The Thomas Jefferson Center for the Protection of Free Expression](#)

APPENDIX TEN

Freedom to View Statement

The freedom to view, along with the freedom to speak, to hear, and to read, is protected by the First Amendment to the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Therefore these principles are affirmed:

1. To provide the broadest access to film, video, and other audiovisual materials because they are a means for the communication of ideas. Liberty of circulation is essential to insure the constitutional guarantees of freedom of expression.
2. To protect the confidentiality of all individuals and institutions using film, video, and other audiovisual materials.
3. To provide film, video, and other audiovisual materials that represent a diversity of views and expression. Selection of a work does not constitute or imply agreement with or approval of the content.
4. To provide a diversity of viewpoints without the constraint of labeling or prejudging film, video, or other audiovisual materials on the basis of the moral, religious, or political beliefs of the producer or filmmaker or on the basis of controversial content.
5. To contest vigorously, by all lawful means, every encroachment upon the public's freedom to view.

This statement was originally drafted by the Freedom to View Committee of the American Film and Video Association (formerly the Educational Film Library Association) and was adopted by the AFVA Board of Directors in February 1979. This statement was updated and approved by the AFVA Board of Directors in 1989. Endorsed by the ALA Council January 10, 1990.

<http://www.ala.org/ala/aboutala/offices/oif/statementspols/ftvstatement/freedomviewstatement.cfm>

APPENDIX ELEVEN

Policy on Confidentiality of Library Records*

The Council of the American Library Association strongly recommends that the responsible officers of each library, cooperative system, and consortium in the United States:

1. Formally adopt a policy that specifically recognizes its circulation records and other records identifying the names of library users to be confidential in nature.
2. Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order or subpoena as may be authorized under the authority of, and pursuant to, federal, state, or local law relating to civil, criminal, or administrative discovery procedures or legislative power.
3. Resist the issuance of enforcement of any such process, order, or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction.**

<http://www.ala.org/ala/aboutala/offices/oif/statementspols/otherpolicies/policyconfidentiality.cfm>

*Note: (See also [ALA Code of Ethics](#), Article III, "We protect each library user's right to privacy and confidentiality with respect to information sought or received, and resources consulted, borrowed, acquired or transmitted" and [Privacy: An Interpretation of the Library Bill of Rights](#).)

**Note: Point 3, above, means that upon receipt of such process, order, or subpoena, the library's officers will consult with their legal counsel to determine if such process, order, or subpoena is in proper form and if there is a showing of good cause of its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defects be cured.

Adopted January 20, 1971; revised July 4, 1975, July 2, 1986, by the ALA Council.

[IMPORTANT: In Alabama, confidentiality of records is not a local library decision. Confidentiality is required by §41-8-10 of the *Code of Alabama*. See Appendix Eighteen for additional information.]

APPENDIX TWELVE

Suggested Procedures for Implementing “Policy on Confidentiality of Library Records”

When drafting local policies, libraries should consult with their legal counsel to ensure these policies are based upon and consistent with applicable federal, state, and local law concerning the confidentiality of library records, the disclosure of public records, and the protection of individual privacy.

Suggested procedures include the following ¹ :

1. The library staff member receiving the request to examine or obtain information relating to circulation or other records identifying the names of library users must immediately refer the person making the request to the responsible officer of the institution, who shall explain the confidentiality policy.
2. The director, upon receipt of such process, order, or subpoena, shall consult with the appropriate legal officer assigned to the institution to determine if such process, order, or subpoena is in good form and if there is a showing of good cause for its issuance.
3. If the process, order, or subpoena is not in proper form or if good cause has not been shown, the library should insist that such defects be cured before any records are released.
4. The legal process requiring the production of circulation or other library records is ordinarily in the form of a subpoena duces tecum (bring your records) requiring the responsible library officer to attend court or to provide testimony at his or her deposition. It also may require him or her to bring along certain designated circulation or other specified records.
5. Staff should be trained and required to report any threats or unauthorized demands (e.g., those not supported by a process, order, or subpoena) concerning circulation and other records to the appropriate officer of the institution.
6. Any problems relating to the privacy of circulation and other records identifying the names of library users that are not provided for above shall be referred to the responsible officer.

Adopted by the ALA Intellectual Freedom Committee

January 9, 1983; revised January 11, 1988; revised March 18, 2005

¹

See also *Confidentiality and Coping with Law Enforcement Inquiries: Guidelines for the Library and its Staff* (<http://www.ala.org/offices/oif/ifissues/confidentiality>)

APPENDIX THIRTEEN

USA PATRIOT ACT

(**U**niting and **S**trengthening **A**merica by **P**roviding **A**ppropriate **T**ools **R**equired to **I**ntercept and **O**bstruct **T**errorism Act)

[*United States Code, 2009 Edition*]

[Title 50, Chapter 36]

From the U.S. Government Printing Office, www.gpo.gov

TITLE 50 - WAR AND NATIONAL DEFENSE
CHAPTER 36 - FOREIGN INTELLIGENCE SURVEILLANCE
SUBCHAPTER IV - ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN
INTELLIGENCE PURPOSES

SUBCHAPTER IV—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

§1861. Access to certain business records for foreign intelligence and international terrorism investigations

(a) Application for order; conduct of investigation generally

(1) Subject to paragraph (3), the Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) for an investigation to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.

(2) An investigation conducted under this section shall—

(A) be conducted under guidelines approved by the Attorney General under Executive Order 12333 (or a successor order); and

(B) not be conducted of a United States person solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(3) In the case of an application for an order requiring the production of **library circulation records, library patron lists**, book sales records, book customer lists, firearms sales records, tax return records, educational records, or medical records containing information that would identify a person, the Director of the Federal Bureau of Investigation may delegate the

authority to make such application to either the Deputy Director of the Federal Bureau of Investigation or the Executive Assistant Director for National Security (or any successor position). The Deputy Director or the Executive Assistant Director may not further delegate such authority.

(b) Recipient and contents of application

Each application under this section—

(1) shall be made to—

(A) a judge of the court established by section 1803(a) of this title; or

(B) a United States Magistrate Judge under chapter 43 of title 28, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the production of tangible things under this section on behalf of a judge of that court; and

(2) shall include—

(A) a statement of facts showing that there are reasonable grounds to believe that the tangible things sought are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, such things being presumptively relevant to an authorized investigation if the applicant shows in the statement of the facts that they pertain to—

(i) a foreign power or an agent of a foreign power;

(ii) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

(iii) an individual in contact with, or known to, a suspected agent of a foreign power who is the subject of such authorized investigation; and

(B) an enumeration of the minimization procedures adopted by the Attorney General under subsection (g) that are applicable to the retention and dissemination by the Federal Bureau of Investigation of any tangible things to be made available to the Federal Bureau of Investigation based on the order requested in such application.

(c) Ex parte judicial order of approval

(1) Upon an application made pursuant to this section, if the judge finds that the application meets the requirements of subsections (a) and (b), the judge shall enter an ex parte order as requested, or as modified, approving the release of tangible things. Such order shall direct that minimization procedures adopted pursuant to subsection (g) be followed.

(2) An order under this subsection—

(A) shall describe the tangible things that are ordered to be produced with sufficient particularity to permit them to be fairly identified;

(B) shall include the date on which the tangible things must be provided, which shall allow a reasonable period of time within which the tangible things can be assembled and made available;

(C) shall provide clear and conspicuous notice of the principles and procedures described in subsection (d);

(D) may only require the production of a tangible thing if such thing can be obtained with a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation or with any other order issued by a court of the United States directing the production of records or tangible things; and

(E) shall not disclose that such order is issued for purposes of an investigation described in subsection (a).

(d) Nondisclosure

(1) No person shall disclose to any other person that the Federal Bureau of Investigation has sought or obtained tangible things pursuant to an order under this section, other than to—

(A) those persons to whom disclosure is necessary to comply with such order;

(B) an attorney to obtain legal advice or assistance with respect to the production of things in response to the order; or

(C) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

(2)(A) A person to whom disclosure is made pursuant to paragraph (1) shall be subject to the nondisclosure requirements applicable to a person to whom an order is directed under this section in the same manner as such person.

(B) Any person who discloses to a person described in subparagraph (A), (B), or (C) of paragraph (1) that the Federal Bureau of Investigation has sought or obtained tangible things pursuant to an order under this section shall notify such person of the nondisclosure requirements of this subsection.

(C) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under subparagraph (A) or (C) of paragraph (1) shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.

(e) Liability for good faith disclosure; waiver

A person who, in good faith, produces tangible things under an order pursuant to this section shall not be liable to any other person for such production. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.

(f) Judicial review of FISA orders

(1) In this subsection—

(A) the term “production order” means an order to produce any tangible thing under this section; and

(B) the term “nondisclosure order” means an order imposed under subsection (d).

(2)(A)(i) A person receiving a production order may challenge the legality of that order by filing a petition with the pool established by section 1803(e)(1) of this title. Not less than 1 year after the date of the issuance of the production order, the recipient of a production order may challenge the nondisclosure order imposed in connection with such production order by

filing a petition to modify or set aside such nondisclosure order, consistent with the requirements of subparagraph (C), with the pool established by section 1803(e)(1) of this title.

(ii) The presiding judge shall immediately assign a petition under clause (i) to 1 of the judges serving in the pool established by section 1803(e)(1) of this title. Not later than 72 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the petition. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the production order or nondisclosure order. If the assigned judge determines the petition is not frivolous, the assigned judge shall promptly consider the petition in accordance with the procedures established under section 1803(e)(2) of this title.

(iii) The assigned judge shall promptly provide a written statement for the record of the reasons for any determination under this subsection. Upon the request of the Government, any order setting aside a nondisclosure order shall be stayed pending review pursuant to paragraph (3).

(B) A judge considering a petition to modify or set aside a production order may grant such petition only if the judge finds that such order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the production order, the judge shall immediately affirm such order, and order the recipient to comply therewith.

(C)(i) A judge considering a petition to modify or set aside a nondisclosure order may grant such petition only if the judge finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person.

(ii) If, upon filing of such a petition, the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation certifies that disclosure may endanger the national security of the United States or interfere with diplomatic relations, such certification shall be treated as conclusive, unless the judge finds that the certification was made in bad faith.

(iii) If the judge denies a petition to modify or set aside a nondisclosure order, the recipient of such order shall be precluded for a period of 1 year from filing another such petition with respect to such nondisclosure order.

(D) Any production or nondisclosure order not explicitly modified or set aside consistent with this subsection shall remain in full effect.

(3) A petition for review of a decision under paragraph (2) to affirm, modify, or set aside an order by the Government or any person receiving such order shall be made to the court of review established under section 1803(b) of this title, which shall have jurisdiction to consider such petitions. The court of review shall provide for the record a written statement of the reasons for its decision and, on petition by the Government or any person receiving such order for writ of certiorari, the record shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

(4) Judicial proceedings under this subsection shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

(5) All petitions under this subsection shall be filed under seal. In any proceedings under this subsection, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions thereof, which may include classified information.

(g) Minimization procedures

(1) In general

Not later than 180 days after March 9, 2006, the Attorney General shall adopt specific minimization procedures governing the retention and dissemination by the Federal Bureau of Investigation of any tangible things, or information therein, received by the Federal Bureau of Investigation in response to an order under this subchapter.

(2) Defined

In this section, the term “minimization procedures” means—

(A) specific procedures that are reasonably designed in light of the purpose and technique of an order for the production of tangible things, to minimize the retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 1801(e)(1) of this title, shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance; and

(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.

(h) Use of information

Information acquired from tangible things received by the Federal Bureau of Investigation in response to an order under this subchapter concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures adopted pursuant to subsection (g). No otherwise privileged information acquired from tangible things received by the Federal Bureau of Investigation in accordance with the provisions of this subchapter shall lose its privileged character. No information acquired from tangible things received by the Federal Bureau of Investigation in response to an order under this subchapter may be used or disclosed by Federal officers or employees except for lawful purposes.

(Pub. L. 95–511, title V, §501, as added Pub. L. 107–56, title II, §215, Oct. 26, 2001, 115 Stat. 287; amended Pub. L. 107–108, title III, §314(a)(6), Dec. 28, 2001, 115 Stat. 1402; Pub. L. 109–177, title I, §§102(b)(1), 106(a)–(e), (f)(2), (g), Mar. 9, 2006, 120 Stat. 195–198; Pub. L. 109–178, §§3, 4(a), Mar. 9, 2006, 120 Stat. 278, 280; Pub. L. 111–118, div. B, §1004(a), Dec. 19, 2009, 123 Stat. 3470.)

AMENDMENT OF SECTION

Pub. L. 109–177, title I, §102(b), Mar. 9, 2006, 120 Stat. 195, as amended by Pub. L. 111–118, div. B, §1004(a), Dec. 19, 2009, 123 Stat. 3470, provided that, effective Feb. 28, 2010, with certain exceptions, this section is amended to read as it read on Oct. 25, 2001:

§1861. DEFINITIONS

As used in this subchapter:

(1) The terms “foreign power”, “agent of a foreign power”, “foreign intelligence information”, “international terrorism”, and “Attorney General” shall have the same meanings as in section 1801 of this title.

(2) The term “common carrier” means any person or entity transporting people or property by land, rail, water, or air for compensation.

(3) The term “physical storage facility” means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof.

(4) The term “public accommodation facility” means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

(5) The term “vehicle rental facility” means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

REFERENCES IN TEXT

Executive Order No. 12333, referred to in subsec. (a)(2)(A), is set out as a note under section 401 of this title.

PRIOR PROVISIONS

A prior section 1861, Pub. L. 95–511, title V, §501, as added Pub. L. 105–272, title VI, §602, Oct. 20, 1998, 112 Stat. 2410, defined terms used in this subchapter, prior to repeal by Pub. L. 107–56, title II, §215, Oct. 26, 2001, 115 Stat. 287. See Amendment of Section note above.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–177, §106(a)(1), substituted “Subject to paragraph (3), the Director” for “The Director”.

Subsec. (a)(3). Pub. L. 109–177, §106(a)(2), added par. (3).

Subsec. (b)(2). Pub. L. 109–177, §106(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “shall specify that the records concerned are sought for an authorized investigation conducted in accordance with subsection (a)(2) of this section to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities.”

Subsec. (c). Pub. L. 109–177, §106(c), (d), amended subsec. (c) generally. Prior to amendment, text read as follows:

“(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application meets the requirements of this section.

“(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a) of this section.”

Subsec. (d). Pub. L. 109–177, §106(e), amended subsec. (d) generally. Prior to amendment, text read as follows: “No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the Federal Bureau of Investigation has sought or obtained tangible things under this section.”

Subsec. (d)(2)(C). Pub. L. 109–178, §4(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance.”

Subsec. (f). Pub. L. 109–178, §3, amended subsec. (f) generally. Prior to amendment, subsec. (f) provided for judicial proceedings relating to challenging an order to produce tangible things.

Pub. L. 109–177, §106(f)(2), added subsec. (f).

Subsecs. (g), (h). Pub. L. 109–177, §106(g), added subsecs. (g) and (h).

2001—Subsec. (a)(1). Pub. L. 107–108 inserted “to obtain foreign intelligence information not concerning a United States person or” after “an investigation”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 102(b)(1) of Pub. L. 109–177 effective Feb. 28, 2010, except that former provisions to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 28, 2010, or with respect to any particular offense or potential offense that began or occurred before Feb. 28, 2010, see section 102(b) of Pub. L. 109–177, set out as a note under section 1805 of this title.

§1862. Congressional oversight

(a) On an annual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate concerning all requests for the production of tangible things under section 1861 of this title.

(b) In April of each year, the Attorney General shall submit to the House and Senate Committees on the Judiciary and the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence a report setting forth with respect to the preceding calendar year—

(1) the total number of applications made for orders approving requests for the production of tangible things under section 1861 of this title;

(2) the total number of such orders either granted, modified, or denied; and

(3) the number of such orders either granted, modified, or denied for the production of each of the following:

(A) Library circulation records, library patron lists, book sales records, or book customer lists.

(B) Firearms sales records.

(C) Tax return records.

(D) Educational records.

(E) Medical records containing information that would identify a person.

(c)(1) In April of each year, the Attorney General shall submit to Congress a report setting forth with respect to the preceding year—

(A) the total number of applications made for orders approving requests for the production of tangible things under section 1861 of this title; and

(B) the total number of such orders either granted, modified, or denied.

(2) Each report under this subsection shall be submitted in unclassified form.

(Pub. L. 95–511, title V, §502, as added Pub. L. 107–56, title II, §215, Oct. 26, 2001, 115 Stat. 288; amended Pub. L. 107–108, title III, §314(a)(7), Dec. 28, 2001, 115 Stat. 1402; Pub. L. 109–177, title I, §§102(b)(1), 106(h), Mar. 9, 2006, 120 Stat. 195, 199; Pub. L. 111–118, div. B, §1004(a), Dec. 19, 2009, 123 Stat. 3470.)

AMENDMENT OF SECTION

Pub. L. 109–177, title I, §102(b), Mar. 9, 2006, 120 Stat. 195, as amended by Pub. L. 111–118, div. B, §1004(a), Dec. 19, 2009, 123 Stat. 3470, provided that, effective Feb. 28, 2010, with certain exceptions, this section is amended to read as it read on Oct. 25, 2001:

§1862. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

(a) Application for authorization

The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

(b) Recipient and contents of application

Each application under this section—

(1) shall be made to—

(A) a judge of the court established by section 1803(a) of this title; or

(B) a United States Magistrate Judge under chapter 43 of title 28 who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

(2) shall specify that—

(A) the records concerned are sought for an investigation described in subsection (a); and

(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

(c) Ex parte judicial order of approval

(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a) of this section.

(d) Compliance; nondisclosure

(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Federal Bureau of Investigation has sought or obtained records pursuant to an order under this section.

PRIOR PROVISIONS

A prior section 1862, Pub. L. 95–511, title V, §502, as added Pub. L. 105–272, title VI, §602, Oct. 20, 1998, 112 Stat. 2411, related to access to certain business records for foreign intelligence and international terrorism investigations, prior to repeal by Pub. L. 107–56, title II, §215, Oct. 26, 2001, 115 Stat. 287. See section 1861 of this title and see Amendment of Section note above.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–177, §106(h)(1), substituted “annual basis” for “semiannual basis” and inserted “and the Committee on the Judiciary” after “and the Select Committee on Intelligence”.

Subsec. (b). Pub. L. 109–177, §106(h)(2)(A), in introductory provisions, substituted “In April of each year, the Attorney General shall submit to the House and Senate Committees on the Judiciary and the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence a report setting forth with respect to the preceding calendar year” for “On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period”.

Subsec. (b)(3). Pub. L. 109–177, §106(h)(2)(B)–(D), added par. (3).

Subsec. (c). Pub. L. 109–177, §106(h)(3), added subsec. (c).

2001—Subsecs. (a), (b)(1). Pub. L. 107–108 substituted “section 1861 of this title” for “section 1842 of this title”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 102(b)(1) of Pub. L. 109–177 effective Feb. 28, 2010, except that former provisions to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 28, 2010, or with respect to any particular offense or potential offense that began or occurred before Feb. 28, 2010, see section 102(b) of Pub. L. 109–177, set out as a note under section 1805 of this title.

APPENDIX FOURTEEN

Guidelines for Materials Complaints

From time to time, people may object to materials that are in the library or where the materials have been placed. Please use the following guidelines to manage complaints about materials.

1. Remember that you are representing [the library] and the fundamental principles of Intellectual Freedom that all public libraries uphold.
2. Your personal views or opinions are not under consideration, nor should they be revealed. Do not take complaints concerning materials personally.
3. **Remain calm.** Give the person an opportunity to speak. Listen carefully and maintain a nonjudgmental manner. All patrons have the right to be heard and to express their concerns.
4. Your job is to be sensitive to the individual's or group's feelings, but do not commiserate, agree, or disagree with their beliefs.
5. Do not become defensive.
6. Treat the individual or group with dignity, courtesy, and respect. Be polite.
7. Offer the library's point of view as a matter of fact. The following are some suggested ways to initiate discussion about the library's position:
 - a) Explain the library's public position and responsibility to provide materials to a diverse population.
 - b) Explain that the library upholds the principle that no one individual or group can dictate to others what they may or may not read.
 - c) Make known the library's position to provide material for all who come in, but it is each individual's choice as to what is used or checked out.
 - d) The library does not coerce people to read or use one source's opinion over another.
 - e) Explain that each person has the freedom of individual choice to make selections from a large offering and a wide variety.
 - f) Point out that we are a public library and, as such, we have a clientele that represents many viewpoints and beliefs.
 - g) Explain how [the library] places emphasis on including materials that represent a broad range of beliefs, not on excluding them.

h) Discuss the fact that libraries, especially public libraries, do not necessarily endorse the ideas represented in their collections.

i) If the complaint relates to children and library materials, point out that the library staff does not assume the role of parent in restricting the access of minors to materials and services. Only parents can restrict materials and only for their own children.

j) Offer a copy of the Freedom to Read Statement and the Library Bill of Rights.

k) Offer to show the library's collection development policy.

8. If the patron remains in disagreement, ask that the complaint be put in writing. In a written complaint, the patron should explain the nature of the concern, state the specifics of what is offensive, and give an explanation for why the material should be removed or relocated. A written complaint should be addressed to the Director

An ad hoc committee will be appointed to study the written complaint, review the material in question, and make a decision on what course to take. The committee will contact the patron or patrons to inform them of the decision and will forward the decision to the library board.

Dear Mr. and Mrs. Doe:

It has come to our attention that you are concerned about the library having the *Harry Potter* series of books in our collection. On your next library visit, be sure to ask us to help you find something else from the many choices we have available. Like all public libraries, we are a family-oriented institution charged with having a broad selection of materials to meet the diverse needs of everyone in our community (adults, children, and teens). In an effort to provide free and open access, we cannot overrule the rights and responsibilities of individuals by deciding who does or doesn't have access to our materials.

I have enclosed our selection and collection development policy for your review. During the selection process, we seek materials that provide a broad range of viewpoints and subject matter. Although professional review sources are used, many of our selections are also based on popular demand and patron suggestions. While we will have many items that families want and need, we also have materials that some parents may find offensive or inappropriate for their children. The selection of an item does not necessarily mean the staff endorses or promotes it but rather is an indication of our aim to provide information from all points of view. Since children vary widely in their maturity rates, backgrounds, interests, and reading levels, we rely heavily on parents and guardians to determine which materials are suitable for their own children. While library staff and resource lists can provide guidance, you know your children and family's needs best.

We look forward to seeing you and your family again soon.

Sincerely,

APPENDIX FIFTEEN

Weeding and Discarding - Sample Policy

Collection Maintenance

Collection management does not end with materials selection and acquisition. It must also include collection maintenance, which is the systematic reexamination of library materials. The goal of the library is to provide a planned and well-balanced collection for the community, so the materials must be continually and thoughtfully reevaluated to determine if they still meet the library's selection guidelines and the expectations of the community served.

Collection maintenance allows librarians to identify collection gaps, subject areas in need of updating, worn and damaged materials, and materials that have received little use. This process also provides an opportunity for librarians to evaluate areas where prior selections have succeeded or failed.

Specific purposes and goals for a comprehensive collection maintenance program include the following:

- To maintain collections that continue to support the needs and interests of the community
- To offer well-maintained materials to the public by removing worn and damaged materials and presenting them in a neat and organized environment
- To make the most efficient use of space so the public has ready access to popular, current, or authoritative information
- To reduce unnecessary duplication when popularity declines and multiple copies are no longer needed
- To maintain the quality and integrity of the materials and information rather than merely quantity
- To train librarians to be familiar with the collection and its use so they can make appropriate selection decisions

Weeding, Discarding, Retention, and Replacement

Weeding, discarding, retention, and replacement are activities used by librarians to maintain the library collection. These activities are put in place during periodic review of the collection. Weeding is the procedure used to identify and remove worn, rarely used, or no longer needed items for discard or for transfer. Discarding is the official process for disposal of library materials. Retention is the action taken to keep materials after they have undergone review and evaluation. Replacement is the substitution of one item for another. The process of reviewing and evaluating materials and making decisions about their disposition is crucial for the proper maintenance of the library collection.

Weeding

Weeding requires the same care, thought, and knowledge of the subject area that selection does. Material that no longer meets the stated objectives of the library or fits the selection criteria of the individual subject area will be weeded.

The goal of the Birmingham Public Library is to provide library materials and resources that are up-to-date, attractive, and accessible for the public's use.

Weeding is essential to the ongoing maintenance of a collection. Libraries should weed on a regularly scheduled basis, checking the shelves for currency, wear, gaps, etc. Weeded titles can be sold in the annual juvenile and adult book sales or discarded.

Weeding is one of the more difficult responsibilities that the librarian faces, but it is important. Collections cannot be allowed to just grow. They require a plan because space is limited at every location, more formats are being produced, and there is greater pressure on the branch / department head to have what is useable on the shelf. Libraries need to be open and un-crowd so the public can find material quickly and easily. Time and efficiency are important both to the staff and to the public.

General considerations that are used to identify materials to be weeded include the following: The material is old, out-of-date, damaged, or no longer popular.

The collection is not accessible. Access is an issue when collections are crowded and in poor shape because patrons and staff cannot find relevant material quickly and efficiently. When shelves are crowded, returning material takes longer, and the likelihood of material being out of order is greater.

The library wants to maintain the reputation of having reliable and up-to-date collections. Old, out-of-date materials may give the appearance that the staff is uncaring and unknowledgeable. When new material cannot be found, the public assumes the library has none.

Critically evaluating the collection helps the staff determine strengths, weaknesses, and gaps. The collection will become much stronger when it is reviewed. The staff will be more knowledgeable in reference work if they know the collection. Newer sources may give more

information or information from a current perspective. Relying only on titles that staff has used over the years may provide erroneous, incomplete information, or no contemporary interpretation.

Juvenile nonfiction material must be accurate, have contemporary appeal, and be arranged attractively. Children do not have the life experiences or the educational background to make a judgment as to accuracy of the information or to discern whether the point of view is reflective of contemporary thinking. Children live in a very visual world. To be appealing, library material must be fresh, colorful, and illustrated primarily with photographs. Rarely will replacements be bought for juvenile nonfiction. Newer editions or newer titles will be bought instead of the identical titles. Libraries weed to gain space for more heavily used material.

Weeding guidelines

Acceptable criteria for weeding include appearance, use, and content. Often a single criterion is not enough to justify weeding, so most of these guidelines are used in connection with each other. Some materials may be candidates for disposal based on these measures, while others may need to be replaced, repaired, or transferred. In some cases, a worn or damaged copy of a title may be replaced with the same title. (See Replacement guidelines below) In other cases, there may be a need for newer titles on the same subject. If it is the last copy in the system, a title still popular at other sites, or a title worthy for consideration in the permanent collection, the barcode should be deleted and the title sent to Collection Management for transfer. The following guidelines are used for weeding based on appearance, use, and content.

Specific guidelines for weeding based on appearance are:

- Old and dirty binding, dirty covers or no dust jacket
- Illustrations out-of-date or no longer acceptable
- Pages brittle, yellow, dirty, water-damaged, smell, or are written on
- Spines broken, pages loose or missing
- Rebound items that need binding again
- Poorly printed, hard to read

Specific guidelines for weeding based on use are:

- No circulation in the last three years and is not a classic
- Duplicate copies and demand no longer high
- Older edition of a title
- Too many titles in a subject area (may move to another library)

Specific guidelines for weeding based on content are:

- Content is too technical
- Information found in title dated or no longer correct (Appendix, Guidelines for Retiring Time Sensitive Materials)
- Viewpoint reflects bias, information presented unfairly or with no contemporary interpretation
- Information has been superseded in a newer edition
- Material never used for information
- Title not appropriate for collection

Discarding guidelines

The following procedures are used when library materials are discarded.

- Material should be pulled from the shelf.
- Delete the barcode from the circulation system.
- If the title goes to the library book sale, the ownership stamp(s) and barcode should be marked out, and other identifying labels removed.
- The article should be stamped "Discarded."

APPENDIX SIXTEEN

State Aid

ALABAMA PUBLIC LIBRARY SERVICE
LIBRARY DEVELOPMENT DIVISION
ADMINISTRATIVE CODE

CHAPTER 520-2-2
SUPPLEMENTAL STATE AID TO PUBLIC LIBRARIES

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520-2-2-.01 **Purposes.** The purposes of state aid funds are to support and improve existing libraries and library systems and to encourage the development of new library programs and services where needed.

Author: Heather M. Oates

Statutory Authority: Code of Alabama 1975, §§41-81-(1-8)

History: Filed March 30, 1992. **Repealed and New Rule:** Filed September 21, 2009; effective November 17, 2011. **Repealed and New Rule:** Filed May 16, 2012; effective June 20, 2012.

520-2-2-.02 **Definitions.**

(1) **Public Library.** A public library is a library established in accordance with the *Code of Alabama* for the purpose of providing free public library service to the population in its legal service area. Public libraries may or may not have BRANCHES (auxiliary service outlets with quarters separate from the central library, with no less than a basic collection of materials, a regular staffing level, and an established service schedule, but without a separate policy-making board of trustees). The following are types of public libraries:

(a) **Municipal Public Library:** A public library established and maintained by a city, town, or other municipality, whose policy-making board of trustees is appointed by the municipal authority.

(b) **County Public Library:** A public library established and maintained by a county for the use of the whole or a part of a county, whose policy-making board is appointed by the county commission.

(c) **City-County Public Library:** A public library established and maintained by joint contractual agreement or joint resolution between county and municipal governments, with a single policy-making board appointed in accordance with the agreements.

(d) **District Library:** A public library serving a taxing district which has been authorized by legislative action and created by majority vote of the residents of the district, whose policy-making board is elected in accordance with the provisions of the legislative action.

(2) **Public Library System:** An organization composed of PUBLIC LIBRARIES and formed for the purpose of providing library services within a framework of written contracts; a public library system may also have contracts with county commissions or municipal governments for the system to provide library services to county or municipal residents who would otherwise be un-served.

(3) **System Headquarters:** A site designated through contractual agreement to serve as administrative center for a PUBLIC LIBRARY SYSTEM. A system headquarters may serve any function established by contract.

(4) **Legal Service Area:** The legal service area of a library is the population within the boundaries of the geographic area the library is established to serve. A library may contract, in writing, to provide service to population outside its legal service area at the discretion of the library board of trustees of the affected area. The following describe legal service areas of different types of libraries:

(a) The legal service area of a MUNICIPAL LIBRARY is the area within the municipality's corporate limits.

(b) The legal service area of a COUNTY LIBRARY is the area within the county geographic borders.

(c) The legal service area of a CITY-COUNTY PUBLIC LIBRARY is all of the area within the corporate limits of participating municipalities and within the county's geographic borders.

(d) The legal service area of a PUBLIC LIBRARY SYSTEM consists of the legal service areas of the public libraries belonging to the system and any additional area(s) for which the system contracts to serve with the appropriate governing body.

(e) The legal service area of a DISTRICT LIBRARY is the area of the taxing district authorized by legislative action and approved by majority vote of the population within the district.

(5) **State Aid:** Funds appropriated by the legislature as a supplement to local funds designated for the provision of library service.

(a) State aid funds are distributed quarterly by the Alabama Public Library Service on a per capita basis for the respective legal service areas and any area served contractually; population figures used are the most recently certified Bureau of the Census population estimates.

(b) Where legal service areas overlap, as in the case where there is both a COUNTY LIBRARY and a MUNICIPAL LIBRARY serving the same population, state aid funds for that part of the population shall be distributed in accordance with the terms of an annually renewed written agreement between the library boards. In order for first quarter funds to be distributed on schedule, a current copy of the agreement must be on file at APLS by October 1. If no contract has been filed with APLS by the beginning of the second quarter, all state aid funds for the county population residing within the municipality will be divided equally between the COUNTY LIBRARY and the MUNICIPAL LIBRARY, with funds for first and second quarters available for distribution during the second quarter and with remaining funds distributed on the regular quarterly schedule.

(6) **Non-Capital Funds:** Non-capital funds are those funds appropriated for normal/routine operations. They do not include funds specifically designated for the acquisition of and/or improvement to real property (buildings, land, etc.).

Author: Heather M. Oates

Statutory Authority: Code of Alabama 1975, §§41-81-(1-8)

History: Filed March 30, 1992. **Repealed and New Rule:** Filed December 18, 2006; effective January 22, 2007. **Repealed and New Rule:** Filed September 21, 2009; effective October 26, 2009. **Repealed and New Rule:** Filed October 13, 2011; effective November 17, 2011. **Repealed and New Rule:** Filed May 16, 2012; effective June 20, 2012.

520-2-2-.03 **Library Establishment. Policy and Service Requirements.** To qualify for state aid, public libraries (whether or not they are members of systems) and public library systems must comply with the appropriate requirements as follows:

(1) A public library and a public library system must be legally established according to the Code of Alabama 1975, 11-90-(I-4). A copy of the ordinance or resolution establishing the public library and copies of public library system contracts must be on file with

the Alabama Public Library Service (APLS).

(2) In order to receive state aid, a library board must:

(a) Notify APLS of official board appointments and the terms to be served within 30 days of the appointment:

(b) Meet a minimum of four times a year;

(c) Have written bylaws governing its functions;

(d) Approve written policies for the public library which cover the following:

1. Library objectives

2. Patrons

3. Personnel, including memberships in professional organizations, attendance at professional meetings, grievance procedures, job descriptions, performance evaluations, etc.

4. Cooperation with other libraries

5. Public relations

6. Materials selection policies

7. Regular services and special services to groups, the handicapped, non-resident borrowers. shut-ins, etc.

8. Overdue fines and other fees and charges

9. Gifts and memorials

10. Physical facilities

11. Other

(e) The public library must develop a written five-year, long-range program of service that will be reviewed and updated each year. The program should include as a minimum but not limited to:

1. The community's information needs and services

2. Staff development

3. Collection development

4. Capital expansion

5. Disaster Plan

6. Technology Plan

(3) The public library must employ a head librarian qualified to serve the needs of the public. Library Directors, Board members, and/or designated staff of public libraries must attend at least two APLS-sponsored meetings per year either on-site or by videoconference. Eligible meetings include quarterly Administrators' Meetings (October, January, April, July) and the Children and Teen Services Annual Conference (i.e. "Summer Reading Kick-off"). Attendance at the Alabama Library Association Annual Conference can count as an Administrators' Meeting.

(4) The public library must not deny service to anyone on the basis of age, race, sex or creed.

(5) A public library must be open to serve the public at least the specified number of hours per week based on the following scale:

Minimum Hours Open	Population Served
50	over 100,000
45	50,000-100,000
40	25,000- 49,999
30	10,000- 24,999
20	5,000 - 9,999
16	under 5,000

(6) If a public library system headquarters provides direct patron services on-site (as opposed to extension services provided off-site), the system headquarters must be open the number of hours required in (5) above, based on the population of the county in which the system headquarters is physically located.

(7) Each library must strive to have a well-balanced collection of not less than one volume per capita and not less than 1.5 currently useful items per capita. The term 'item' is intended to include print and non-print materials.

Author: Heather M. Oates

Statutory Authority: Code of Alabama 1975, §§41-81-(1-8)

History: Filed March 30, 1992. **Amended:** Filed May 20, 2005; effective June 24, 2005.

Repealed and New Rule: Filed December 18, 2006; effective January 22, 2007. **Repealed**

and New Rule: Filed September 21, 2009; effective October 26, 2009. **Repealed and New**

Rule: Filed October 13, 2011; effective November 17, 2011. **Repealed and New Rule:**

Filed May 16, 2012; effective June 20, 2012.

520-2-2-.04 Fiscal Requirements. A public library must have a current budget, and the participants of a public library system must have a cumulative total current budget, based on locally appropriated non-capital funds, of not less than the amount of state aid for which the library or system is eligible nor less than the previous year's budget. Locally appropriated non-capital funds may include a combination of municipal or county funds appropriated to the library or system budget and in-kind funds expended directly by local governments for public library services.

(a) If locally appropriated funds received are not sufficient to match for state aid and/or if the locally appropriated funds received are reduced from the previous year, the amount of state aid for the current fiscal year will be reduced by an amount equal to the difference between the current locally appropriated funds received and the average of the locally appropriated funds received for the previous two (2) fiscal years.

Example of the effect of a local budget reduction, assuming a population of 10,000 and \$1 per capita state aid:

Local budget:	2000	\$18,000	State aid:	\$10,000
Local budget:	2001	20,000	State aid:	10,000
Local budget:	2002	18,000	State aid:	9,000*
Local budget:	2003	18,000	State aid:	10,000**

*(State aid is reduced by the \$1,000 difference between the \$19,000 average of the previous two years and the \$18,000 amount budgeted for 2002).

** (State aid reverts to total eligible amount because the state aid amount is matched and there is no further local budget reduction.)

(b) A multi-county regional library can qualify for the total state aid amount for which it is eligible even if any county or municipality within the region is unable to match for its share, provided that supplementary local appropriations from other member counties or municipalities are available to match for the necessary amount of state aid. State aid funds received by a regional library by this method can only be used in the counties or municipalities providing the supplementary funds.

(c) No more than fifty percent (50%) of a library's state aid funds will be used for salaries during any fiscal year.

(d) No state aid may be used for construction, remodeling or alteration of buildings.

(2) Where a public library system exists, all state aid funds for libraries or governmental units contracting to participate in the system will be forwarded to the system headquarters, providing that copies of the annually reviewed contracts are sent to APLS prior to receipt of state funding.

(3) State aid funds will be distributed directly to eligible public libraries that

are not in systems.

(4) Changes in the distribution of state aid can only be made at the beginning of the APLS fiscal year and under the following conditions:

(a) A public library that wishes to change its status as a state aid recipient by either joining or withdrawing from a system must file written notification with APLS and the system headquarters by July 1 to insure provision of state aid by October 1.

(b) A public library that is not currently receiving state aid, but wishes to do so, must file written notification with APLS, and submit documentation that it meets the requirements of 520-2-2-.03 above, by July 1 in order to receive state aid by October 1.

Author: Eugene C. O'Donnell

Statutory Authority: Code of Alabama 1975, §§41-81-(1-8)

History: Filed March 30, 1992. **Amended:** Filed April 17, 2006; effective May 22, 2006.

Repealed and New Rule: Filed September 21, 2009; effective October 26, 2009.

Repealed and New Rule: Filed October 13, 2011; effective November 17, 2011.

Repealed and New Rule: Filed May 16, 2012; effective June 20, 2012.

520-2-2-.05 Statement of Fiscal Responsibility Requirement.

(1) All public libraries receiving state aid funds appropriated by the State of Alabama and administered by the Alabama Public Library Service (APLS) in any fiscal year shall, in the first quarter of the subsequent fiscal year, provide to APLS a Statement of Fiscal Responsibility denoting the usage of state aid funds during the most recently completed fiscal year. All public libraries receiving and using state aid funds in a fiscal year, either directly or indirectly, shall comply annually. The form and substance of the State of Fiscal Responsibility shall be mandated by APLS and shall be made available to the public libraries of Alabama by APLS.

(2) APLS shall make the Statement of Fiscal Responsibility form available to the public libraries of Alabama on or prior to October 1. In addition to the certification of receipt and expenditure of state aid, the public library director shall indicate that the funds were utilized in accordance with the public library's Five Year Plan of Service on file with APLS. All segments of the form must be completed by the public library and signed by the public library's Director and notarized.

(3) The financial records of the library and all the financial records of the libraries to which it transfers state aid will be made available upon request from APLS to the Alabama Department of Examiners of Public Accounts and/or the Alabama Public Library Service. The library may be subject to an annual financial review by a licensed public accountant unless APLS requests an audit to be done by the Department of Examiners of Public Accounts. Copies of this document will be forwarded to ALS and the Alabama Department of Examiners of Public Accounts.

(4) APLS shall accept a certified public accountant audit detailing the usage of state aid funds by a public library in lieu of the Statement of Fiscal Responsibility, if the audit

is received in the first quarter of the subsequent fiscal year and the audit provides a comparable reporting of the Statement of Fiscal Responsibility.

(5) Failure to comply with these audit requirements for state aid funds shall result in the suspension of further funding of state aid funds to noncompliant public libraries.

Author: Heather M. Oates, APA Secretary

Statutory Authority: Code of Alabama 1975, §§41-81-(1-8)

History: Filed March 30, 1992. **Repealed and New Rule:** Filed June 22, 2004; effective July 27, 2004. **Amended:** Filed April 17, 2006; effective May 22, 2006. **Repealed and**

New Rule: Filed September 21, 2009; effective October 26, 2009. **Repealed and New**

Rule: Filed October 13, 2011; effective November 17, 2011. **Repealed and New Rule:** Filed May 16, 2012; effective June 20, 2012.

520-2-2-.06 State Aid Documentation Requirements. All documentation required for the receipt of state aid must be filed with APLS by the deadlines specified below or within 30 days of mailing of forms from APLS. Filing of documentation with APLS after a deadline may result in delay in receipt of state aid funds.

Required Documentation	July 1	October 1	December 31	Jan. 1
Notification of change in system membership status:	X			
Documentation of new eligibility to receive state aid:	X			
State aid application form:		X		
Projected state aid expenditure form:		X		
Copies of contracts from public library systems:		X		
Copies of contracts between county and municipal libraries:		X		
Annual statistical report form:			X	
Statement of Fiscal Responsibility				X

Author: Heather M. Oates, APA Secretary

Statutory Authority: Code of Alabama 1975, §§41-81-(1-8)

History: Filed March 30, 1992. **Amended:** Filed June 22, 2004; effective July 27, 2004.

Amended: Filed April 17, 2006; effective May 22, 2006. **Repealed and New Rule:** Filed September 21, 2009; effective October 26, 2009. **Repealed and New Rule:** Filed October 13, 2011; effective November 17, 2011. **Repealed and New Rule:** Filed May 16, 2012; effective June 20, 2012.

520-2-2-.07 **Appeal Process.**

(1) A public library or public library system that fails to meet any of the Rules and Regulations for State Aid may request special consideration by writing the Director of the Alabama Public Library Service. Such consideration shall be subject to the approval of the APLS Executive Board following a recommendation by the Director of APLS.

Author: Heather M. Oates

Statutory Authority: Code of Alabama 1975, §§41-81-(1-8)

History: Filed March 30, 1992. **Amended:** Filed June 22, 2004; effective July 27, 2004.

Amended: Filed April 17, 2006; effective May 22, 2006. **Repealed and New Rule:** Filed June 22, 2004; effective July 27, 2004. **Amended:** Filed April 17, 2006; effective May 22, 2006. **Repealed and New Rule:** Filed September 21, 2009; effective October 26, 2009.

Repealed and New Rule: Filed October 13, 2011; effective November 17, 2011. **Repealed and New Rule:** Filed May 16, 2012; effective June 20, 2012.

520-2-2.08 **State Aid Forfeiture.**

(1) Due to a breach of the obligation of any public library (independent or system member) to fulfill the requirements of state aid rules and regulations by the time of the beginning of the last quarterly payment of state aid, said funds appropriated for the use of the library not in compliance shall be forfeited. The forfeiture shall result in the state aid funds being used in statewide support services in accordance with the concept of state aid support.

(2) Any public library not receiving or certified to receive state aid funds two consecutive years shall be removed from the list of eligible recipients for state aid funds. The formerly designated state aid funds of an ineligible public library shall be assigned to another public library of the same geographic county at the authorization of the APLS Director.

Author: Heather M. Oates

Statutory Authority: Code of Alabama 1975, §§41-81-(1-8)

History: New Rule: Filed December 18, 2006; effective January 22, 2007. **Repealed and New Rule:** Filed September 21, 2009; effective October 26, 2009. **Repealed and New Rule:** Filed October 13, 2011; effective November 17, 2011. **Repealed and New Rule:** Filed May 16, 2012; effective June 20, 2012.

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APPENDIX SEVENTEEN

Children's Internet Protection Act (CIPA)

CHILDREN'S INTERNET PROTECTION ACT (Pub. L. 106-554)

TITLE XVII--CHILDREN'S INTERNET PROTECTION

SEC. 1701. SHORT TITLE.

This title may be cited as the "Children's Internet Protection Act".

SEC. 1702. DISCLAIMERS.

(a) **DISCLAIMER REGARDING CONTENT.**--Nothing in this title or the amendments made by this title shall be construed to prohibit a local educational agency, elementary or secondary school, or library from blocking access on the Internet on computers owned or operated by that agency, school, or library to any content other than content covered by this title or the amendments made by this title.

(b) **DISCLAIMER REGARDING PRIVACY.**--Nothing in this title or the amendments made by this title shall be construed to require the tracking of Internet use by any identifiable minor or adult user.

SEC. 1703. STUDY OF TECHNOLOGY PROTECTION MEASURES.

(a) **IN GENERAL.**--Not later than 18 months after the date of the enactment of this Act, the National Telecommunications and Information Administration shall initiate a notice and comment proceeding for purposes of—

- (1) evaluating whether or not currently available technology protection measures, including commercial Internet blocking and filtering software, adequately addresses the needs of educational institutions;
- (2) making recommendations on how to foster the development of measures that meet such needs; and
- (3) evaluating the development and effectiveness of local Internet safety policies that are currently in operation after community input.

(b) **DEFINITIONS.**--In this section:

(1) **TECHNOLOGY PROTECTION MEASURE.**--The term "technology protection measure" means a specific technology that blocks or filters Internet access to visual depictions that are—

- (A) obscene, as that term is defined in section 1460 of title 18, United States Code;
- (B) child pornography, as that term is defined in section 2256 of title 18, United States Code; or
- (C) harmful to minors.

(2) **HARMFUL TO MINORS.**--The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that--

(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(3) **SEXUAL ACT; SEXUAL CONTACT.**--The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2246 of title 18, United States Code.

Subtitle A--Federal Funding for Educational Institution Computers

SEC. 1712. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR LIBRARIES.

(a) **AMENDMENT.**--Section 224 of the Museum and Library Services Act (20 U.S.C. 9134(b)) is amended--

(1) in subsection (b)--

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following new paragraph:

"(6) provide assurances that the State will comply with subsection (f); and"; and

(2) by adding at the end the following new subsection:

"(f) **INTERNET SAFETY.**--

"(1) **IN GENERAL.**--No funds made available under this Act for a library described in section 213(2)(A) or (B) that does not receive services at discount rates under section 254(h)(6) of the Communications Act of 1934, as added by section 1721 of this Children's Internet Protection Act, may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such library unless--

"(A) such library--

"(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are--

"(I) obscene;

"(II) child pornography; or

"(III) harmful to minors; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

"(B) such library--

"(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are--

"(I) obscene; or

"(II) child pornography; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers.

“(2) **ACCESS TO OTHER MATERIALS.**--Nothing in this subsection shall be construed to prohibit a library from limiting Internet access to or otherwise protecting (1)(A)(i).

“(3) **DISABLING DURING CERTAIN USE.**--An administrator, supervisor, or other authority may disable a technology protection measure under paragraph (1) to enable access for bona fide research or other lawful purposes.

“(4) **TIMING AND APPLICABILITY OF IMPLEMENTATION.**—

“(A) **IN GENERAL.**--A library covered by paragraph (1) shall certify the compliance of such library with the requirements of paragraph (1) as part of the application process for the next program funding year under this Act following the effective date of this subsection, and for each subsequent program funding year thereafter.

“(B) **PROCESS.**—

“(i) **LIBRARIES WITH INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A library covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this Act.

“(ii) **LIBRARIES WITHOUT INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A library covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

“(I) for the first program year after the effective date of this subsection in which the library applies for funds under this Act, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

“(II) for the second program year after the effective date of this subsection in which the library applies for funds under this Act, shall certify that such library is in compliance with such requirements.

Any library covered by paragraph (1) that is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this Act for such second program year and all subsequent program years until such time as such library comes into compliance with such requirements.

“(iii) **WAIVERS.**--Any library subject to a certification under clause (ii)(II) that cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The library shall notify the Director of the Institute of Museum and Library Services of the applicability of that clause to the library. Such notice shall certify that the library will comply with the requirements in paragraph (1) before the start of the third program year after

the effective date of this subsection for which the library is applying for funds under this Act.

“(5) NONCOMPLIANCE.—

“(A) USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.--

Whenever the Director of the Institute of Museum and Library Services has reason to believe that any recipient of funds this Act is failing to comply substantially with the requirements of this subsection, the Director may—

“(i) withhold further payments to the recipient under this Act,

“(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

“(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements.

“(B) RECOVERY OF FUNDS PROHIBITED.--The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a library to comply substantially with a provision of this subsection, and the Director shall not seek a recovery of funds from the recipient for such failure.

“(C) RECOMMENCEMENT OF PAYMENTS.--Whenever the Director determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Director shall cease the withholding of payments to the recipient under that subparagraph.

“(6) SEPARABILITY.--If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby.

“(7) DEFINITIONS.--In this section:

“(A) CHILD PORNOGRAPHY.--The term ‘child pornography’ has the meaning given such term in section 2256 of title 18, United States Code.

“(B) HARMFUL TO MINORS.--The term ‘harmful to minors’ means any picture, image, graphic image file, or other visual depiction that—

“(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

“(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

“(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

“(C) MINOR.--The term ‘minor’ means an individual who has not attained the age of 17.

“(D) OBSCENE.--The term ‘obscene’ has the meaning given such term in section 1460 of title 18, United States Code.

“(E) SEXUAL ACT; SEXUAL CONTACT.--The terms ‘sexual act’ and ‘sexual contact’ have the meanings given such terms in section 2246 of title 18, United States Code.”

(b) EFFECTIVE DATE.--The amendment made by this section shall take effect 120 days after the date of the enactment of this Act.

Subtitle B--Universal Service Discounts

SEC. 1721. REQUIREMENT FOR SCHOOLS AND LIBRARIES TO ENFORCE INTERNET SAFETY POLICIES WITH TECHNOLOGY PROTECTION MEASURES FOR COMPUTERS WITH INTERNET ACCESS AS CONDITION OF UNIVERSAL SERVICE DISCOUNTS.

(b) **LIBRARIES.**--Such section 254(h) is further amended by inserting after paragraph (5), as amended by subsection (a) of this section, the following new paragraph:

“(6) REQUIREMENTS FOR CERTAIN LIBRARIES WITH COMPUTERS HAVING INTERNET ACCESS.—

“(A) INTERNET SAFETY.—

“(i) **IN GENERAL.**--Except as provided in clause (ii), a library having one or more computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the library—

“(I) submits to the Commission the certifications described in subparagraphs (B) and (C); and

“(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the library under subsection (I); and

“(III) ensures the use of such computers in accordance with the certifications.

“(ii) **APPLICABILITY.**--The prohibition in clause (i) shall not apply with respect to a library that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

“(iii) **PUBLIC NOTICE; HEARING.**--A library described in clause (i) shall provide reasonable public notice and hold at least 1 public hearing or meeting to address the proposed Internet safety policy.

“(B) **CERTIFICATION WITH RESPECT TO MINORS.**--A certification under this subparagraph is a certification that the library—

“(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene;

“(II) child pornography; or

“(III) harmful to minors; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors.

“(C) **CERTIFICATION WITH RESPECT TO ADULTS.**--A certification under this paragraph is a certification that the library--

“(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with

Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene; or

“(II) child pornography; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers.

“(D) **DISABLING DURING ADULT USE.**--An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i) may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose.

“(E) **TIMING OF IMPLEMENTATION.**—

“(i) **IN GENERAL.**--Subject to clause (ii) in the case of any library covered by this paragraph as of the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certification under subparagraphs (B) and (C) shall be made—

“(I) with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program funding year; and

“(II) with respect to any subsequent program funding year, as part of the application process for such program funding year.

“(ii) **PROCESS.**—

“(I) **LIBRARIES WITH INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A library covered by clause (i) that has in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C) shall certify its compliance with subparagraphs (B) and (C) during each annual program application cycle under this subsection, except that with respect to the first program funding year after the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certifications shall be made not later than 120 days after the beginning of such first program funding year.

“(II) **LIBRARIES WITHOUT INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.**--A library covered by clause (i) that does not have in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C)—

“(aa) for the first program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C); and

“(bb) for the second program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is in compliance with subparagraphs (B) and (C).

Any library that is unable to certify compliance with such requirements in such second program year shall be ineligible for services at discount rates or funding in lieu of services at such rates under this subsection for such second year and all subsequent program years under this subsection, until such time as such library comes into compliance with this paragraph.

“(III) **WAIVERS**.--Any library subject to subclause (II) that cannot come into compliance with subparagraphs (B) and (C) in such second year may seek a waiver of subclause (II)(bb) if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A library, library board, or other authority with responsibility for administration of the library shall notify the Commission of the applicability of such subclause to the library. Such notice shall certify that the library in question will be brought into compliance before the start of the third program year after the effective date of this subsection in which the library is applying for funds under this subsection.

“(F) **NONCOMPLIANCE**.—

“(i) **FAILURE TO SUBMIT CERTIFICATION**.--Any library that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for services at discount rates or funding in lieu of services at such rates under this subsection.

“(ii) **FAILURE TO COMPLY WITH CERTIFICATION**.--Any library that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraphs (B) and (C) shall reimburse all funds and discounts received under this subsection for the period covered by such certification.

“(iii) **REMEDY OF NONCOMPLIANCE**.—

“(I) **FAILURE TO SUBMIT**.--A library that has failed to submit a certification under clause (i) may remedy the failure by submitting the certification to which the failure relates. Upon submittal of such certification, the library shall be eligible for services at discount rates under this subsection.

“(II) **FAILURE TO COMPLY**.--A library that has failed to comply with a certification as described in clause (ii) may remedy the failure by ensuring the use of its computers in accordance with such certification. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the library shall be eligible for services at discount rates under this subsection.”.

(c) **DEFINITIONS**.--Paragraph (7) of such section, as redesignated by subsection (a)(1) of this section, is amended by adding at the end the following:

“(D) **MINOR**.--The term ‘minor’ means any individual who has not attained the age of 17 years.

“(E) **OBSCENE**.--The term ‘obscene’ has the meaning given such term in section 1460 of title 18, United States Code.

“(F) **CHILD PORNOGRAPHY**.--The term ‘child pornography’ has the meaning given such term in section 2256 of title 18, United States Code.

“(G) **HARMFUL TO MINORS.**--The term ‘harmful to minors’ means any picture, image, graphic image file, or other visual depiction that—

“(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

“(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

“(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

“(H) **SEXUAL ACT; SEXUAL CONTACT.**--The terms ‘sexual act’ and ‘sexual contact’ have the meanings given such terms in section 2246 of title 18, United States Code.

“(I) **TECHNOLOGY PROTECTION MEASURE.**--The term ‘technology protection measure’ means a specific technology that blocks or filters Internet access to the material covered by a certification under paragraph (5) or (6) to which such certification relates.”.

(d) **CONFORMING AMENDMENT.**--Paragraph (4) of such section is amended by striking “paragraph (5)(A)” and inserting “paragraph (7)(A)”.

(e) **SEPARABILITY.**--If any provision of paragraph (5) or (6) of section 254(h) of the Communications Act of 1934, as amended by this section, or the application thereof to any person or circumstance is held invalid, the remainder of such paragraph and the application of such paragraph to other persons or circumstances shall not be affected thereby.

(f) **REGULATIONS.**—

(1) **REQUIREMENT.**--The Federal Communications Commission shall prescribe regulations for purposes of administering the provisions of paragraphs (5) and (6) of section 254(h) of the Communications Act of 1934, as amended by this section.

(2) **DEADLINE.**--Notwithstanding any other provision of law, the Commission shall prescribe regulations under paragraph (1) so as to ensure that such regulations take effect 120 days after the date of the enactment of this Act.

(g) **AVAILABILITY OF CERTAIN FUNDS FOR ACQUISITION OF TECHNOLOGY PROTECTION MEASURES.**

(1) **IN GENERAL.**--Notwithstanding any other provision of law, funds available under section 3134 or part A of title VI of the Elementary and Secondary Education Act of 1965, or under section 231 of the Library Services and Technology Act, may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title and the amendments made by this title. No other sources of funds for the purchase or acquisition of such measures are authorized by this title, or the amendments made by this title.

(2) **TECHNOLOGY PROTECTION MEASURE DEFINED.**--In this section, the term “technology protection measure” has the meaning given that term in section 1703.

(h) **EFFECTIVE DATE.**--The amendments made by this section shall take effect 120 days after the date of the enactment of this Act.

APPENDIX EIGHTEEN

Chapter 8, "Alabama Public Library Service", §41-8-1 to §41-8-10 of the *Code of Alabama, 1975*

TITLE 41 – STATE GOVERNMENT CHAPTER 8 – ALABAMA PUBLIC LIBRARY SERVICE

§41-8-1. Creation; chief objective.

In order to aid in the development of higher ideals of citizenship and the enlargement of opportunity for culture and recreation and in order to afford an additional means for the further upbuilding of the educational facilities of the state, there shall be a Public Library Service, which shall be known as the Alabama Public Library Service and shall have as its chief objective the development of a cooperative system of providing books and library service for the various municipalities and counties of the state.

(Acts 1939, No. 171, p. 297; Code 1940, T. 55, §278; Acts 1959, No. 600, p. 1488.)

§41-8-2. Executive board generally.

The Executive Board of the Alabama Public Library Service shall consist of seven members appointed by the Governor, of which one member shall be from each congressional district. Such members shall be qualified electors of the state and shall have resided in the state for five years next preceding their appointment and shall live in the congressional district which he or she represents. Appointments shall be for five years, and all vacancies, including expired and unexpired terms, shall be filled by the Governor by appointment. Provided, however, present members of the executive board shall continue in office until the first expiration of the term of any member, at which time and thereafter each board member shall represent the congressional district in which he or she resides with no two members residing in the same district, and any vacancies, for whatever reason, shall be filled accordingly. Members of the executive board shall be allowed \$10.00 per day, not to exceed 20 days per year, plus travel expenses pursuant to Article 2 of Chapter 7 of Title 36. It shall be the duty and power of the executive board to conduct the affairs of the Public Library Service, to administer the funds received from the Treasury that are allocated to the Public Library Service and to be responsible for the program and for such other activities as would naturally be administered by such an executive board.

(Acts 1939, No. 171, p. 297; Code 1940, T. 55, §279; Acts 1959, No. 600, p. 1488; Acts 1988, No. 88-338, p. 514.)

§41-8-3. Election of officers of executive board; Director of Public Library Service and assistants.

The members of the executive board shall elect from its membership a chairman and vice-chairman. The board shall appoint a director. The director shall be a graduate of an accredited library school who shall have had a minimum of three years of library experience in an administrative capacity or shall be a college graduate with a master's degree with a major in library science who shall have had a minimum of five years of library experience in an administrative capacity. The director shall not be a member of the executive board and shall serve at the pleasure of the board. All other members of the staff of the service shall be appointed by the executive board on the nomination of the director and shall be subject to the provisions of the state Merit System law. The director shall keep a record of the proceedings of the board, shall keep accurate accounts of all financial transactions of the service, shall have charge of its work in organizing new libraries and improving those already established and in general perform such duties as may from time to time be assigned by the executive board. (*Acts 1939, No. 171, p. 297; Code 1940, T. 55, §281; Acts 1959, No. 600, p. 1488.*)

§41-8-4. Annual report of executive board to Governor.

The executive board shall make an annual report to the Governor. The report shall show public library conditions and progress in Alabama and a statement of the expenses and activities of the Public Library Service. These annual reports shall be printed as other annual reports of the state departments and shall be distributed by the board or the director thereof. (*Acts 1939, No. 171, p. 297; Code 1940, T. 55, §282; Acts 1959, No. 600, p. 1488.*)

§41-8-5. Powers and duties of Public Library Service generally.

(a) The Alabama Public Library Service shall give advice to all free public, regional, municipal and county libraries and to all communities in the state which may propose to establish public libraries, in the manner provided in this article, as to the best means of establishing and administering such Public Library Service, selecting and cataloging books and other details of library management and may send any of its staff to aid in organizing such libraries or to assist in the improvement of those already established. The service may advise as to the proper qualifications of librarians of free public, regional, municipal and county libraries and shall perform such other services consistent with and in furtherance of the purpose of this article as shall from time to time appear feasible. Moreover, the service shall advise as to arrangements as provided in Section 11-90-4, by which local governmental agencies may combine in the establishment of joint units of library service. The service may receive and shall administer all funds, books or other property from whatever source, under such conditions as may be deemed necessary in order to carry out the purpose of this article; and, by the use of such means and methods as circumstances warrant, the service may acquire and operate traveling libraries, and circulate or loan such books and libraries among communities, libraries, library associations, social and civic clubs and organizations and other

public agencies and institutions under such conditions and rules as the board deems necessary in order to protect the interests of the state and to increase the efficiency and promote the extension of public library service throughout the state.

(b) The Alabama Public Library Service, through its board, shall have the authority to make exceptions in their criteria for receiving state aid as they relate to educational requirements and hours of operation.

(Acts 1939, No. 171, p. 297; Code 1940, T. 55, §280; Acts 1959, No. 600, p. 1488; Acts 1982, No. 82-154, §4.)

§41-8-6. Scholarships and grants in field of library service.

The Executive Board of the Alabama Public Library Service may, upon such terms and conditions as it may fix, award scholarships or grants in the field of library science on the graduate or undergraduate level to persons of high integrity whom it may select to the extent that funds are available therefore from funds not otherwise obligated which are available to the Alabama Public Library Service in accordance with the state plan provided for by United States Public Law 597, approved June 19, 1965, the "Library Services Act," as now exists or is hereafter amended or replaced.

(Acts 1961, No. 812, p. 1188, §1.)

§41-8-7. Service to obtain reports from public libraries.

The Alabama Public Library Service shall each year obtain from all free public libraries in the State of Alabama reports showing the conditions, growth, development and conduct of said libraries. This provision shall not apply to the libraries of the Supreme Court of Alabama, the Department of Archives and History or school libraries aided and supervised by the Department of Education and the libraries of institutions of higher learning.

(Acts 1915, No. 693, p. 745; Code 1923, §1400; Acts 1939, No. 171, p. 297; Code 1940, T. 55, §§257, 283; Acts 1959, No. 600, p. 1488; Acts 1982, No. 82-154, §4.)

§41-8-8. Applicability and effect of article.

This article shall in no way affect the administration and supervision of public school libraries which have been or may hereafter be established by aid through the Department of Education, except by agreement, nor shall this article affect in any way the administration and supervision of public school libraries under the control of any city or county board of education, except by agreement; nor shall it, except by agreement, affect or apply to libraries of institutions of higher learning nor to free public libraries in counties where a city having a population of not less than 65,000 already maintains a free public library.

(Acts 1939, No. 171, p. 297; Code 1940, T. 55, §284.)

§41-8-9. "Registration records" defined.

As used in Section 41-8-10, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information which identifies the patrons utilizing particular books and any other library materials in any medium or format. *(Acts 1983, No. 83-565, p. 866, §1.)*

§41-8-10. Registration, etc., records of public libraries to be confidential; right of parents to inspect records.

It is recognized that public library use by an individual should be of confidential nature. Any other provision of general, special or local law, rule or regulation to the contrary notwithstanding, the registration and circulation records and information concerning the use of the public, public school, college and university libraries of this state shall be confidential. Registration and circulation records shall not be open for inspection by, or otherwise available to, any agency or individual except for the following entities: (a) the library which manages the records; (b) the state education department for a library under its jurisdiction when it is necessary to assure the proper operation of such library; or (c) the state Public Library Service for a library under its jurisdiction when it is necessary to assure the proper operations of such library. Aggregate statistics shown from registration and circulation records, with all personal identification removed, may be released or used by a library for research and planning purposes. Provided however, any parent of a minor child shall have the right to inspect the registration and circulation records of any school or public library that pertain to his or her child.

(Acts 1983, No. 83-565, p. 866, §2.)