DRAFTING, ENFORCING, AND MANAGING OPERATIONAL POLICIES

MONTANA STATE LIBRARY SUMMER 2025

These materials are designed to provide information regarding areas of the law and best practices concerning the identified topics. These materials are not intended to be a rendering of legal advice. The reader of these materials should request legal advice from an attorney on specific legal inquiries.

INTENDED OUTCOMES

This session provides library leaders foundational guidance about the drafting, adoption, and enforcement of operational policies. Emerging and ongoing issues are presented so participants complete the session with renewed confidence in handling operational matters.

QUESTION: WHAT IS THE PROCESS FOR POLICY ADOPTION IN MONTANA LIBRARIES?

STATUTORY REQUIREMENTS

- Section 22-1-309, MCA, states a library board of trustees "shall have exclusive control of the expenditure of the public library fund, of construction or lease of library buildings, and of the operation and care of the library." To that end, The library board of trustees of every public library shall, "adopt bylaws and rules for its own transaction of business and for the government of the library, not inconsistent with law."
- Section 22-1-707, MCA, states, "(2) The board has all powers necessary for the betterment, operation, and maintenance of library property within the territory of the public library district, including establishing library locations. In the exercise of this general grant of powers, the board may: (d) adopt by resolution bylaws and rules for the operation and administration of the district"
- Section 20-7-203, MCA, states "<u>The trustees shall adopt those policies necessary for</u> regulating the use and operation of school libraries. These policies may provide for the use of school libraries by the residents of the district, provided that such use does not interfere with the regular school use of the library."

LIBRARY POLICIES - PURPOSE

- An effective library policy should satisfy these objectives:
 - Maintain continuity and consistency and foster stability;
 - Clarify board/staff relations and provide guidance for the administrative staff;
 - Legitimize library actions;
 - Allow the board and staff to operate the library in a more efficient manner; and
 - Provide the basis for a legal record.
- An effective library policy is the first line of defense in litigation by achieving these objectives.

LIBRARY POLICIES - FOUNDATIONS

- Library policies originate from many areas to serve specific purposes.
 - Statute, regulation or judicial opinion;
 - Established library practice;
 - Recommendation from local government or insurance carrier;
 - Board and community philosophy; and
 - Financial management or auditing requirements.

LIBRARY POLICIES - SOURCES

- There are many sources of information to access when drafting, reviewing, or revising policies:
 - Montana State Library
 - Montana Library Association
 - Montana School Boards Association
 - Other Library Leaders
 - Legal Counsel
 - Local Government Partners

LIBRARY POLICIES - DRAFTING

- Policies are public documents communicating to all stakeholders, taxpayers, policymakers, patrons, employees, and concerned observers.
- Establish a consistent format for policies with a number, subject, headings, objective, adopted on date, revised on date, and organized by topic.
- The objective of the policy should be stated in an easily understood sentence which relates back to the mission of the library.
- Review and utilize language from applicable legal sources when possible.
- Use easily understood language in short clear sentences.
- Don't try to address every possible issue or concern or create more work through overly ambitious and aspirational provisions.
 - Carefully draft language which sufficiently addresses the topic without being too general.
 - Continue to break the issue down into smaller subtopics/subsections to make it manageable.
 - Authorize director to interpret and apply the policy in a manner consistent with board's intent and mission of library.
- Refer drafts to full board for review and consideration.

LIBRARY POLICIES – ADOPTION

- Each public library or school district will have a "policy on policies."
- That policy will outline how policies are reviewed, adopted, revised, or terminated.
- A library's bylaws, memorandum of agreement, or other governance documents will provide detail about policy management.
- Policies must be reviewed, discussed, and voted upon in accordance with public participation and open meeting laws.
- Patrons and employees should be provided a chance for comment.
- Policies must be accurate and publicly accessible. The public and employees will rely on policies for guidance and to respond to inquiries.
- Policies cannot remain dormant. They are active, living documents.
- Employee handbooks should be a distillation of the policy manual accessible to staff and consistent with any collective bargaining agreement.

LIBRARY POLICIES - TOPICS

Frequent areas of litigation are areas to focus on when reviewing policy:

- Patron Conduct
- Collection Management
- Circulation
- Reconsideration
- Meeting Rooms
- Displays
- Computer Usage
- Gifts and Donations
- Grievances
- Personnel
- Volunteers

- Open Meetings and Public Participation
- Community Engagement
- Employee and Trustee Code of Ethics
- Patron Definition and Services
- Non-Discrimination Laws
 - Sexual Harassment
 - Disability Access
 - Other Protected Classes

QUESTION: WHAT ARE SOME EXAMPLES OF THE BENEFITS OF POLICY ENFORCEMENT?

CREATE A LEGAL RECORD

- Purpose: An effective library operational policy will ensure the library has a legal record of the process followed to reach a decision and establish a defense in the event of a legal challenge.
- **Example Policy:** Complaint or Reconsideration Policy
- Benefit: A complaint or reconsideration policy will be developed in accordance with applicable state statute in addition to the federal case law on the topic. This legal compliance will then be refined to reflect the specific aspects of the library's operations such as committee or director review process and timelines for responding to the complaint. This policy can be followed by library, complainant, and public in a transparent and accountable manner. It can result in a decision which can be presented to a judge or other tribunal for review.

SUPPORT EFFICIENT OPERATIONS

- Purpose: An effective library operational policy will ensure the library has a specific, methodical, and consistent process to handle routine matters so the staff does not have to re-create the decision-making procedures in each situation.
- **Example Policy:** Volunteer Policy
- Benefit: A volunteer policy will be developed in accordance with applicable state statute in addition to the guidance and from insurance carriers on the topic. This legal compliance will then be refined to reflect the specific needs of the library. It can set expectations for how prospective volunteers apply, are vetted, and approved. It can establish a framework for the roles and responsibilities of volunteers and how the staff supervises volunteers to ensure patron privacy, safety, and services are fully supported.

BOARD/STAFF RELATIONS

- Purpose: An effective library operational policy will ensure the library has a clear division of labor between the board and the staff by outlining the role of each when setting a vision for the library and implementing that vision.
- Example Policy: Policy on Policies
- Benefit: A policy on governance and operational policies will be developed in accordance with applicable state statute in addition to the library's bylaws. This legal compliance will then be refined to reflect the specific practices within the library, community and local government. Topics such as the relationship to the local government; the process for open meetings and public comment; the manner in which a policy is adopted, enforced, and reviewed; and how the policies are all posted to the public for access can be detailed in this policy. This models the positive transparent behavior within the library to earn the trust of all citizens and patrons.

CONTINUITY, CONSISTENCY, STABILITY

- Purpose: An effective library operational policy will ensure the library has a reliable framework to manage the library consistent with applicable laws and community expectations regardless of who is on the board on staff.
- **Example Policy:** Meeting Rooms Policy
- Benefit: A meeting rooms policy will be developed in accordance with applicable state statute in addition to the federal case law on the topic. This legal compliance will then be refined to reflect the specific layout of the library facility and grounds while reflecting the mission and goals of the library. A comprehensive policy will authorize staff to act in an efficient and reasonable manner to accept requests for reservations, services to those with an accepted reservation, and the process to provide notice when a reservation is denied. This will help ensure objective access to the meeting rooms without entangling the library in external entities' operations or messages. When enforced, the policy will legitimize the actions of staff consistent with board intent.

LEGITIMIZE LIBRARY ACTIONS

- Purpose: An effective library operational policy will ensure the library has documentation - adopted in a manner consistent with law - which supports the decisions of the library staff when managing the day-to-day operations of the library.
- **Example Policy:** Patron Conduct Policy
- Benefit: A patron conduct policy will be developed in accordance with applicable state statute in addition to the federal case law on the topic. This legal compliance will then be refined to reflect the specific layout of the library facility and grounds while reflecting the mission and goals of the library. A comprehensive policy will authorize staff to act in an efficient and reasonable manner to intervene when conduct is interfering with other patrons' rights to access information or the obligations of staff to preserve a safe library setting. When enforced, the policy will legitimize the actions of staff consistent with board intent.

QUESTION: WHO IS AVAILABLE FOR LEGAL ASSISTANCE IN MONTANA LIBRARIES?

MONTANA LIBRARY ASSISTANCE HELPLINE



THANK YOU

Contact Information:

