

MHLS Executive Committee / Directors Forum

Legal Issues for Library Boards

Saturday, November 18, 2006
Mid-Hudson Library System

*Jim Farrell, Adjunct Professor, Queens College and
Long Island University.*

*Jerry Nichols, Director of Palmer Institute for
Public Library Organization & Management;
Long Island University.*

Workshop Objectives



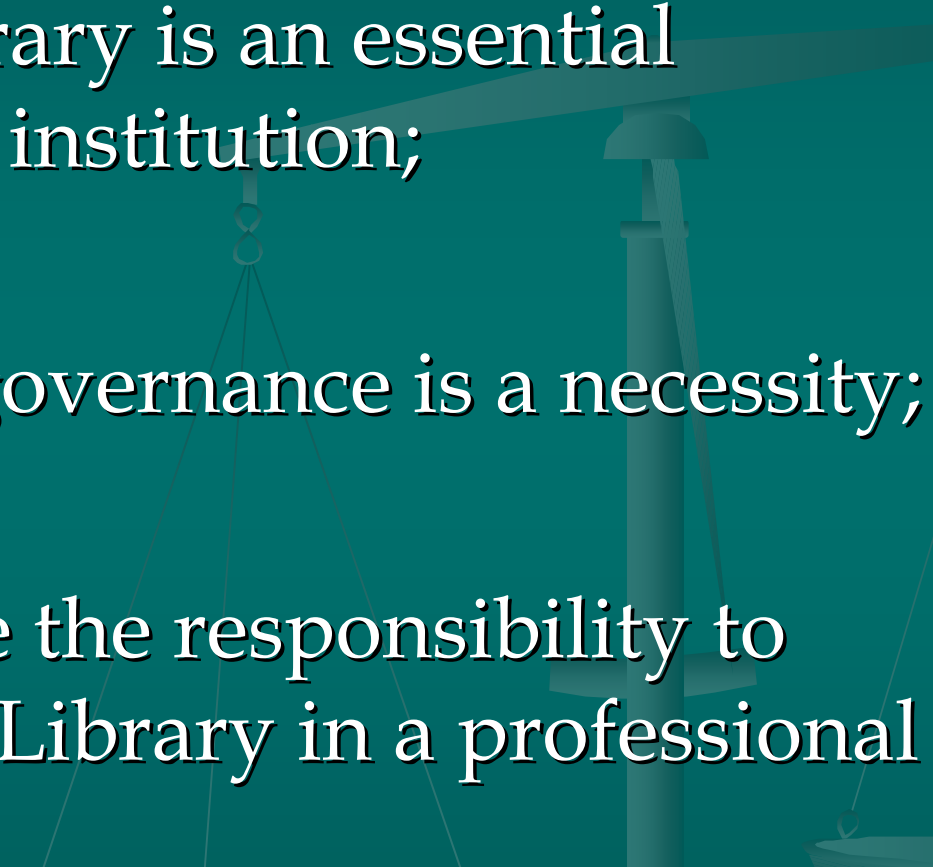
- Understand the Legal and Ethical Responsibilities of Trustees;
- Explore the Legal Basis for Public Libraries;
- Review the Rules for Conducting a Legal and Effective Board Meeting

Topics



- Duties and Responsibilities of Trustees
- Legal Structure of Public Libraries
- The Laws and Regulations that you should know
- Conducting a Legal and Effective Board Meeting
- Essentials of Library Policies

Do you Agree?

- That the library is an essential educational institution;
 - That good governance is a necessity;
 - Boards have the responsibility to oversee the Library in a professional manner.
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Duties and Responsibilities of Public Library Trustees

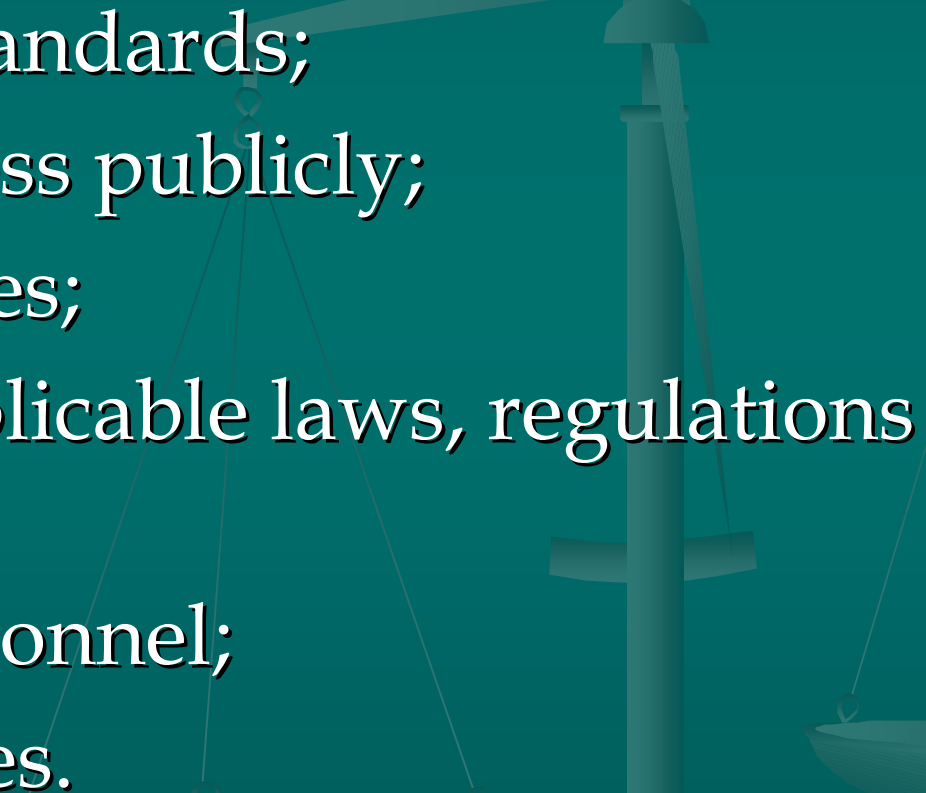
- The Duty of Care: *“to act in good faith”*
- The Duty of Loyalty: *“allegiance to the institution”*
- The Duty of Obedience: *“fulfill the mission”; comply with law*

<http://www.regents.nysed.gov/statement.html>



Trustee Basics

Responsibilities:

- Meet Library standards;
 - Conduct business publicly;
 - Oversee Finances;
 - Conform to applicable laws, regulations and decisions;
 - Appoint of Personnel;
 - Establish Policies.
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Trustee Ethics



- Conflicts of Interest

- General Municipal Law; Sec. 800

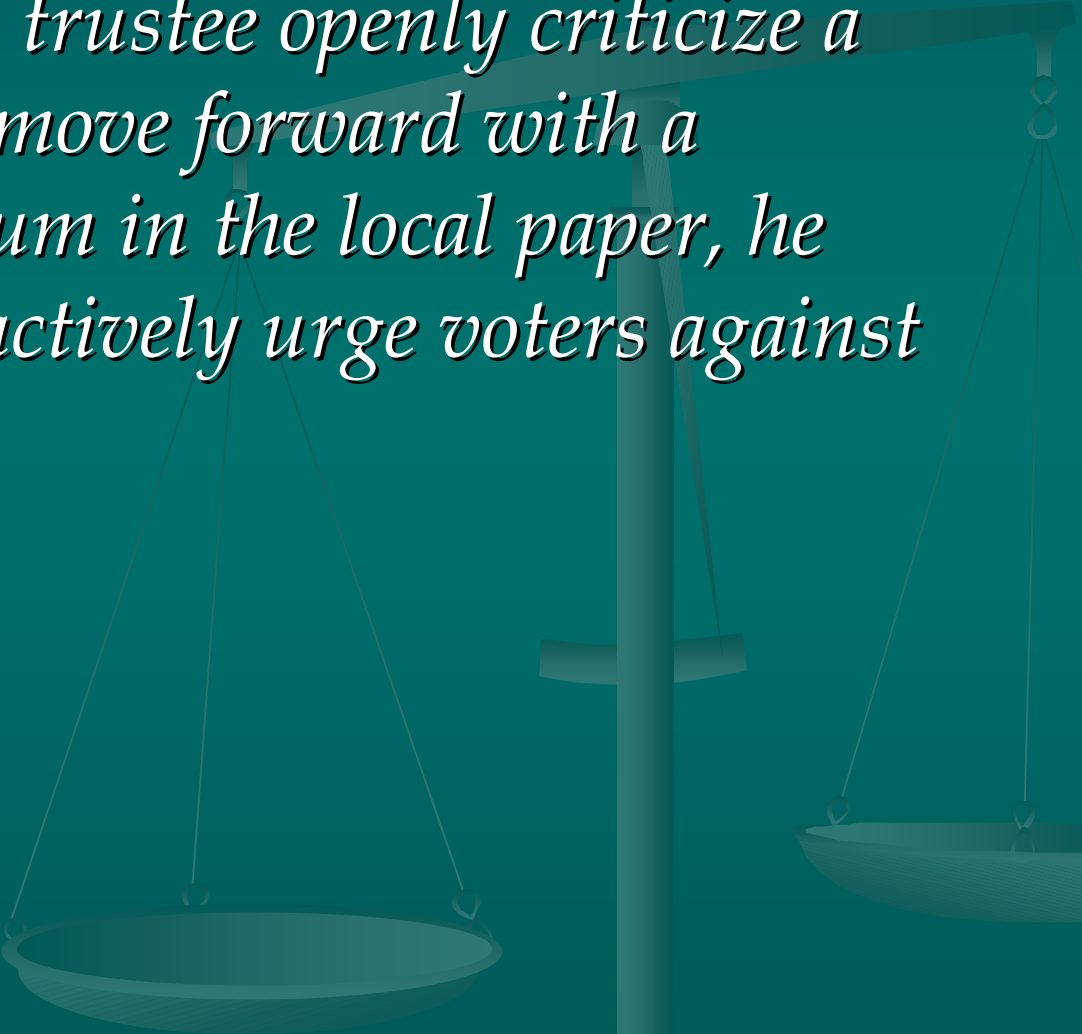
- *“no officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee...”*
 - Inclusion of family members
 - “Free” services prohibited

- Application to Association Libraries

- <http://www.ala.org/ala/alta/links/ethicsstatement.pdf>

Case Study- Board Responsibilities

“We recently had a trustee openly criticize a board decision to move forward with a building referendum in the local paper, he went as far as to actively urge voters against the proposition.”



“The most important task of an organization’s leader is to anticipate crisis. Perhaps not to avert it, but to anticipate it.

To wait until the crisis hits is already abdication. One has to make the organization capable of anticipating the storm, weathering it, and in fact, being ahead of it.

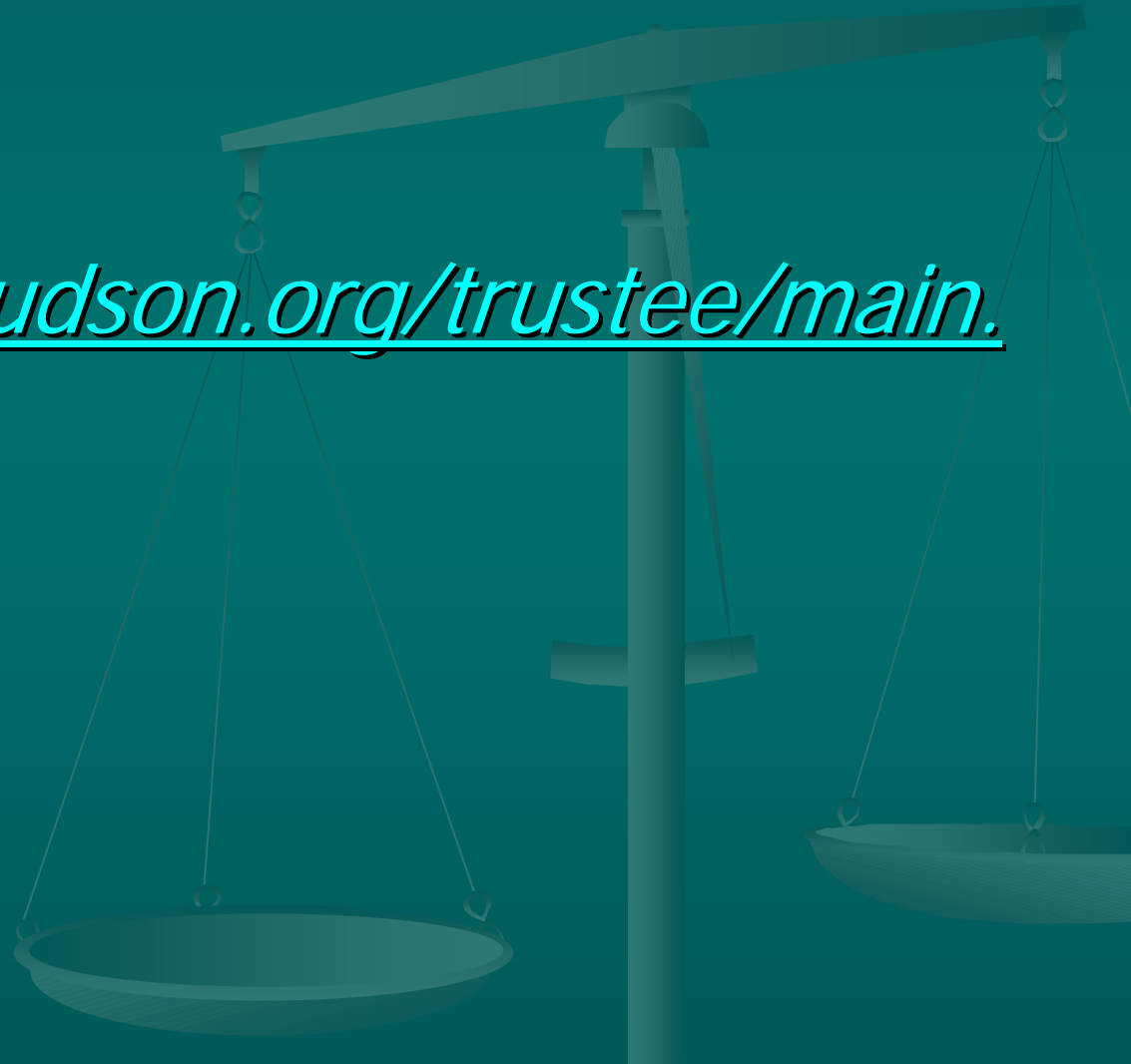
It’s called innovation, constant renewal.”

- Peter Drucker

Duties and Responsibilities of Public Library Trustees

Resources:

- <http://midhudson.org/trustee/main.htm>



The Library Corporation

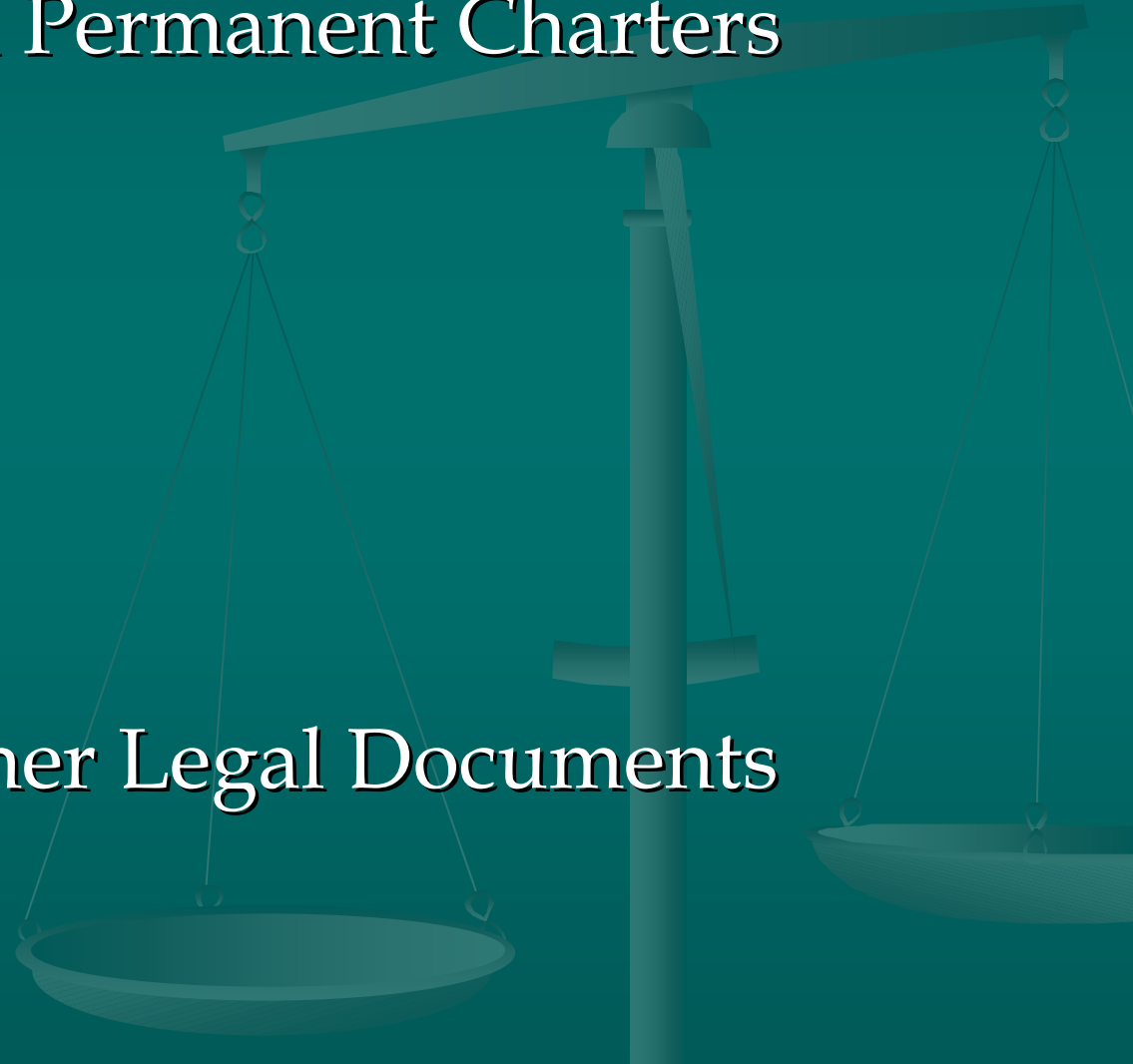
- Educational Corporations
- The Board of Regents
- Commissioner of Education
- State Education Department

<http://www.counsel.nysed.gov/pamphlet9/home.html>



Critical Documents

- Provisional and Permanent Charters
- Registration
- By-Laws
- Policies
- Minutes
- Audits
- Contracts & Other Legal Documents

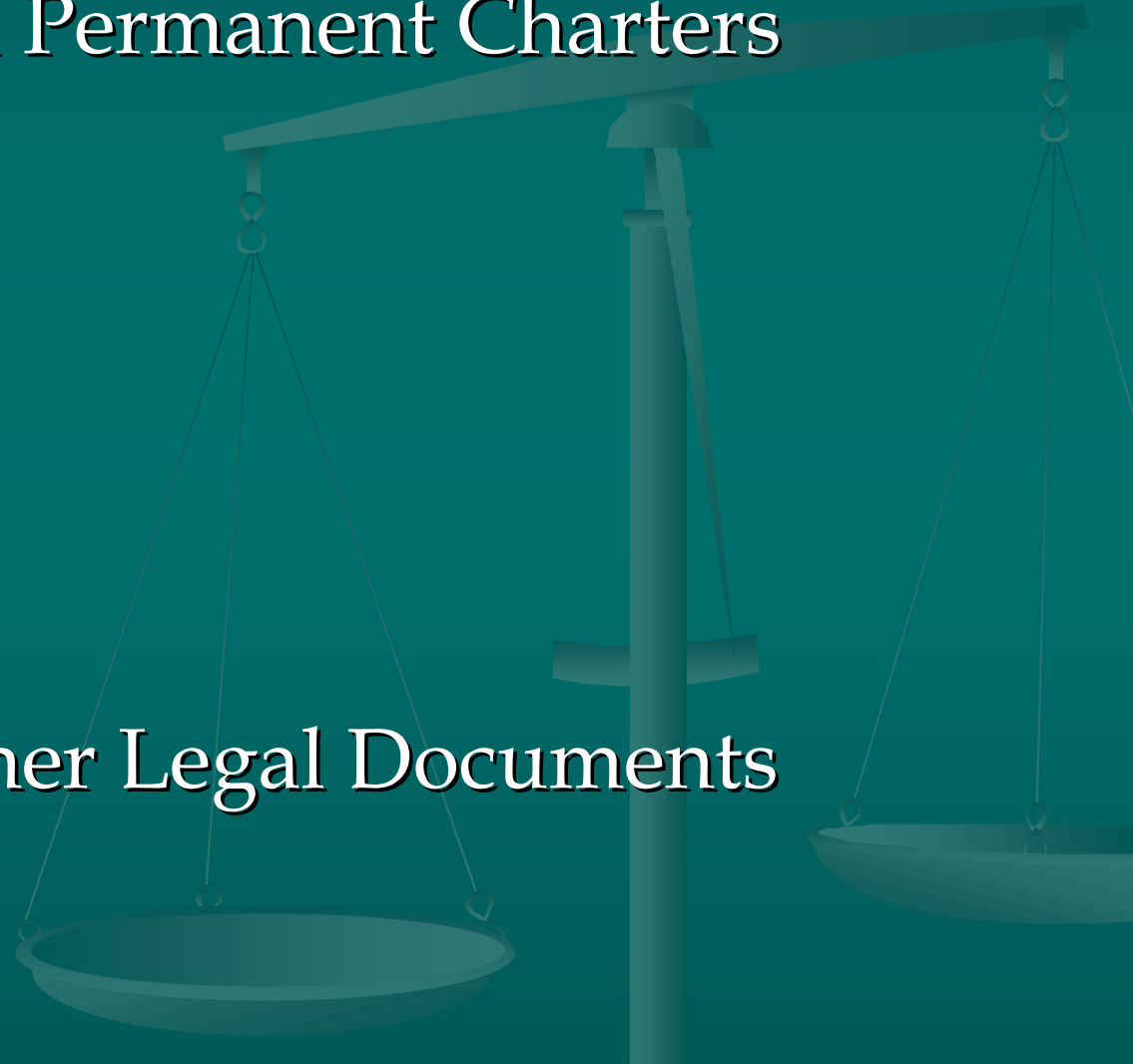


By-Laws vs. Charter

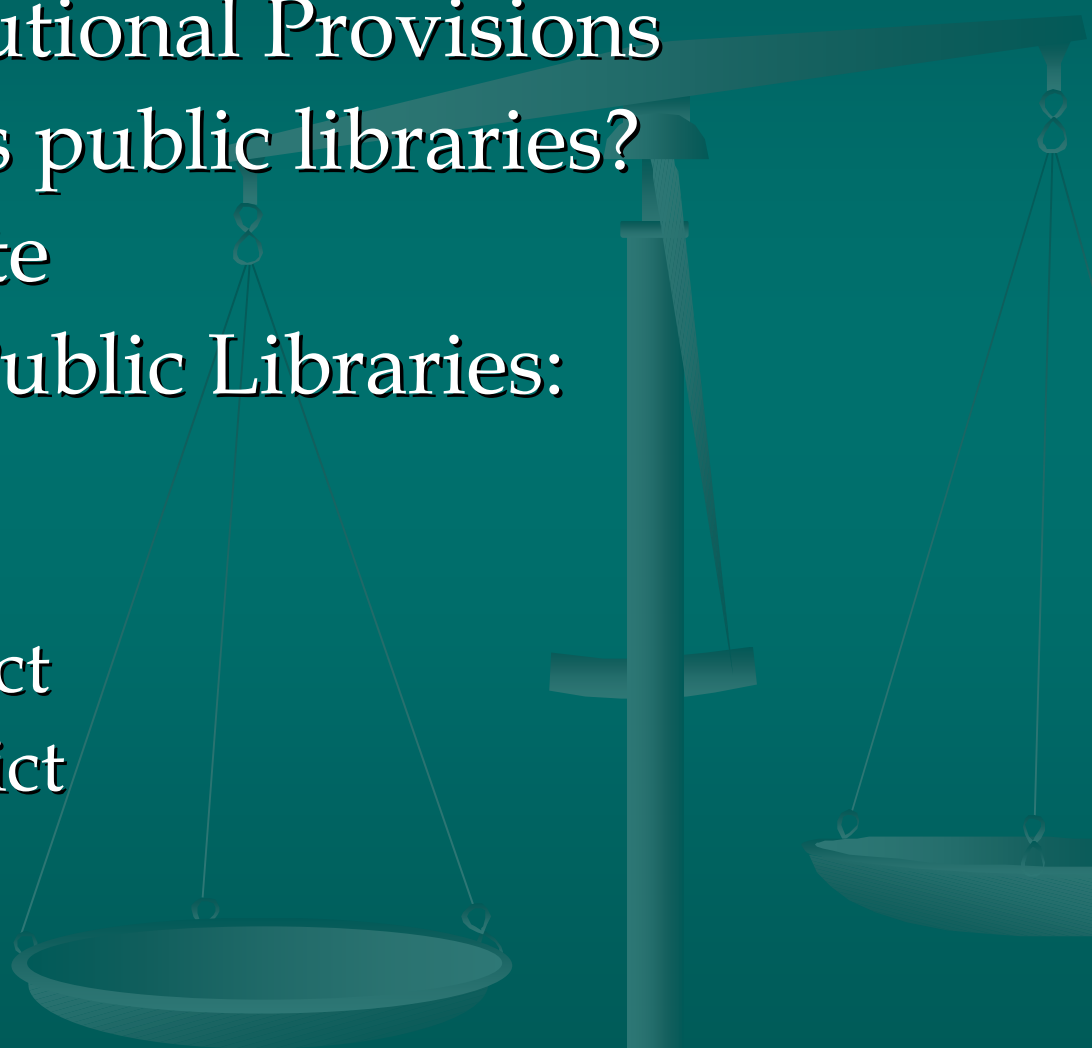
- *The By-Laws are the rules and procedures by which the Board of Trustees functions.*
- *The Charter is a legal document from the Board of Regents that incorporates the library, making it an education corporation that must meet certain standards of operation (Registration).*
- *The By-Laws must be consistent with the current charter, Education Law and the Education Commissioner's Regulations.*

Critical Documents

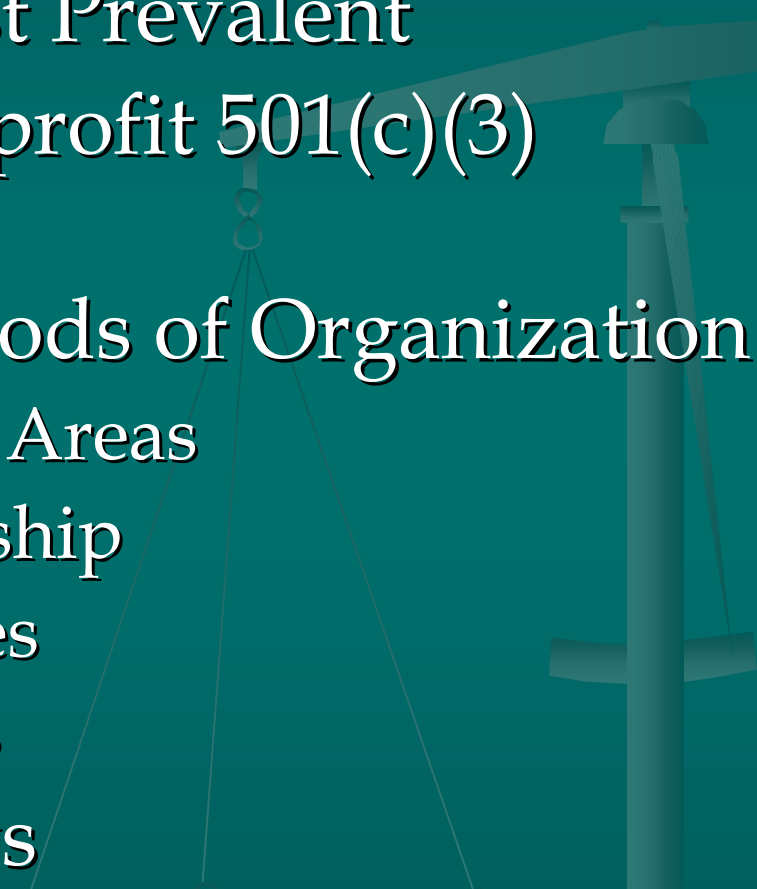
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- Registration
- By-Laws
- Policies
- Minutes
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Types of Public Libraries

- Lack of Constitutional Provisions
 - Who establishes public libraries?
 - Public vs. Private
 - Four Types of Public Libraries:
 - Association
 - Municipal
 - School District
 - Special District
- 

Association Libraries

- Oldest and Most Prevalent
 - Private not-for-profit 501(c)(3) organizations
 - History & Methods of Organization
 - Typical Service Areas
 - Board Membership
 - Budgets & Taxes
 - Capital Projects
 - Applicable Laws
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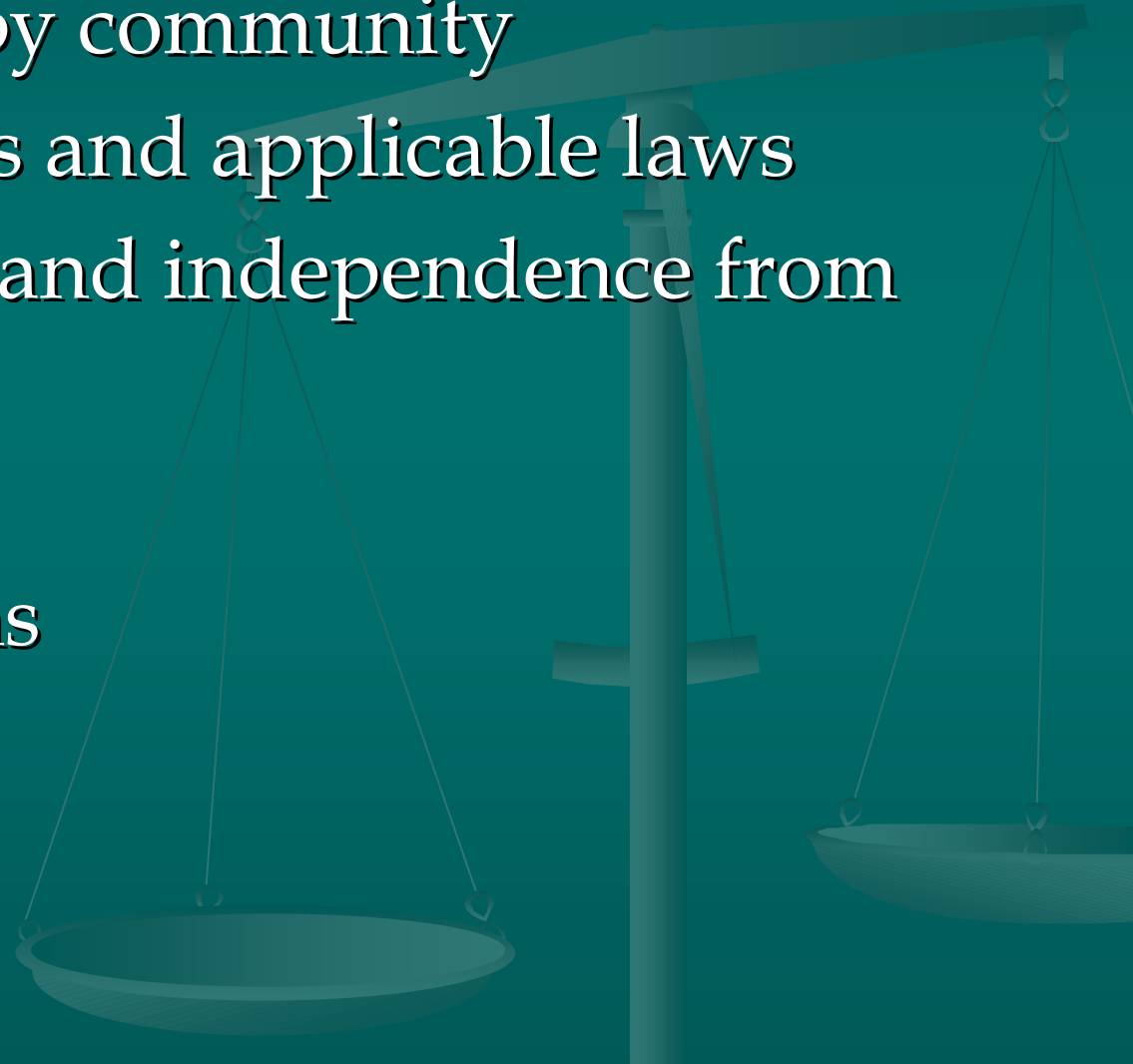
Municipal Libraries

- Establishment
- “Public” aspects and applicable laws
- Relationship with municipality
- Budget development, presentation and independence
- Capital projects



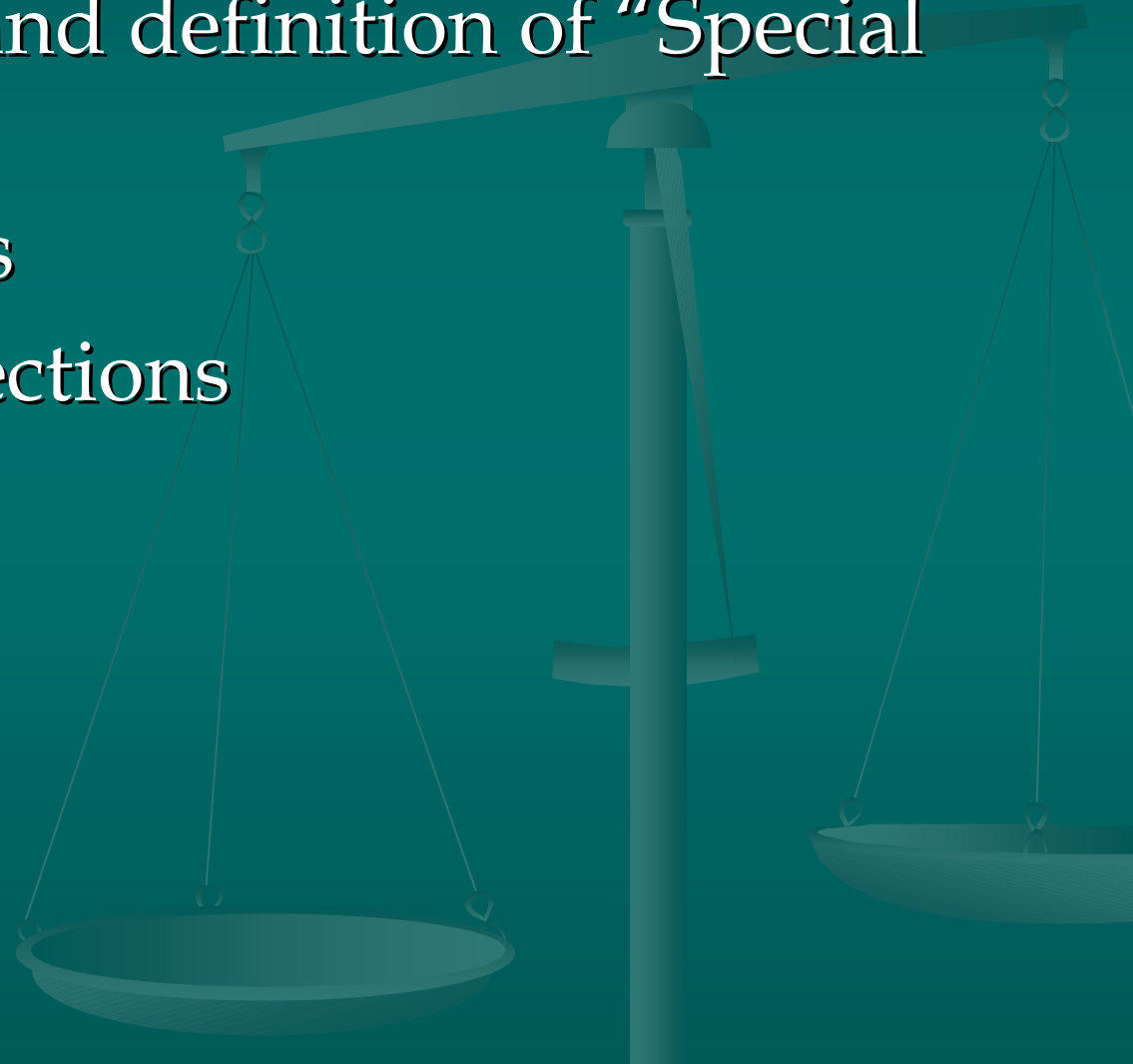
School District Libraries

- Establishment by community
- “Public” aspects and applicable laws
- Legal structure and independence from School District
- Budget votes
- Trustee elections



Special District Libraries

- Establishment and definition of “Special District”
- Applicable laws
- Budgets and elections



Public library districts

A public library district is any library that:

- Obtains a substantial amount of its operating budget through direct public vote.
- Has a board of trustees that is elected by eligible voters within the library's service area.
- Has an annual audit or financial review to ensure accountability.


Governing Laws



Public Library Law in New York State:

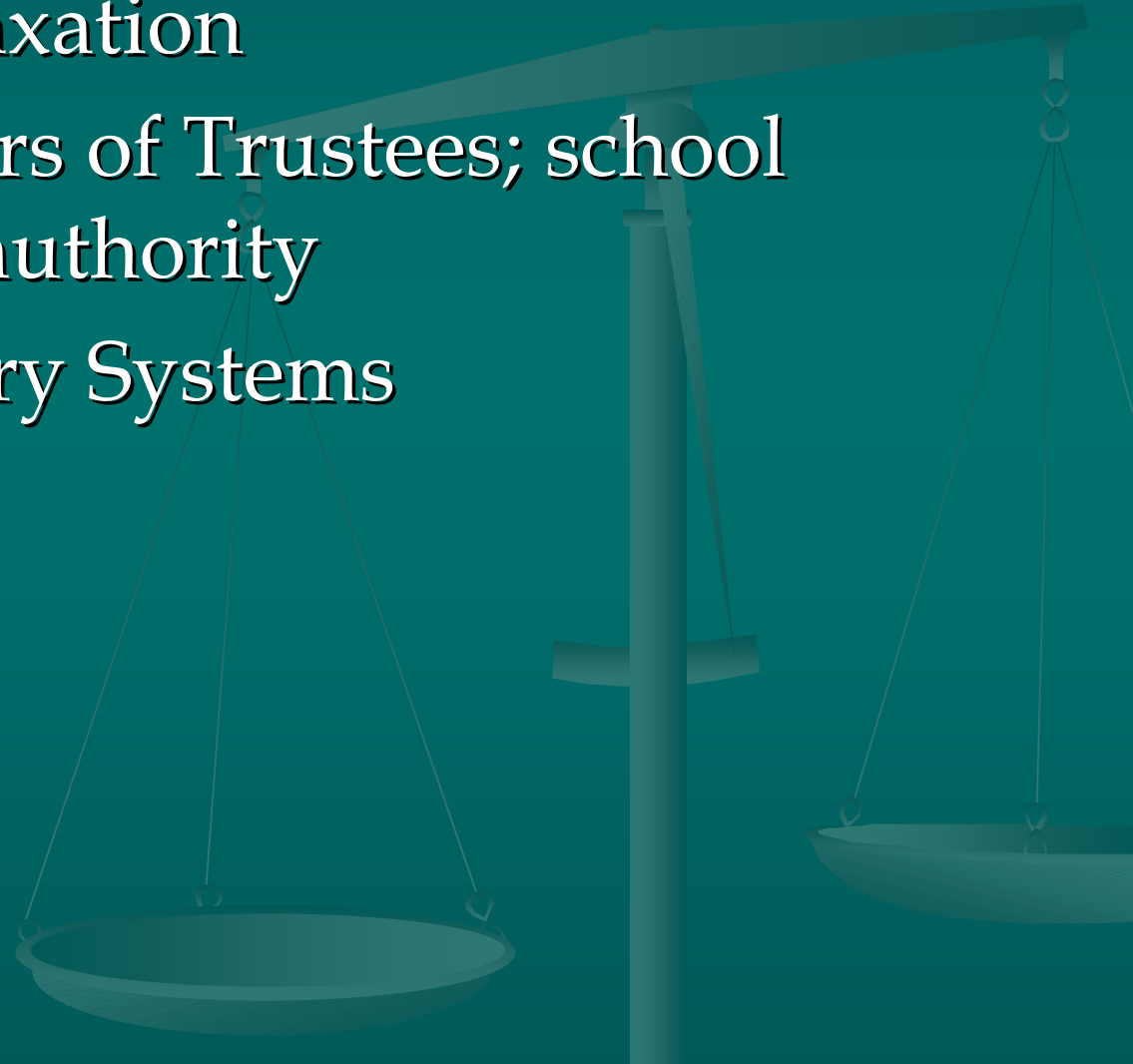
- http://www.nyla.org/content/user_1/Public_Library_Law.pdf
- <http://www.nysl.nysed.gov/libdev/excerpts/index.html>

Education Law – Critical Sections

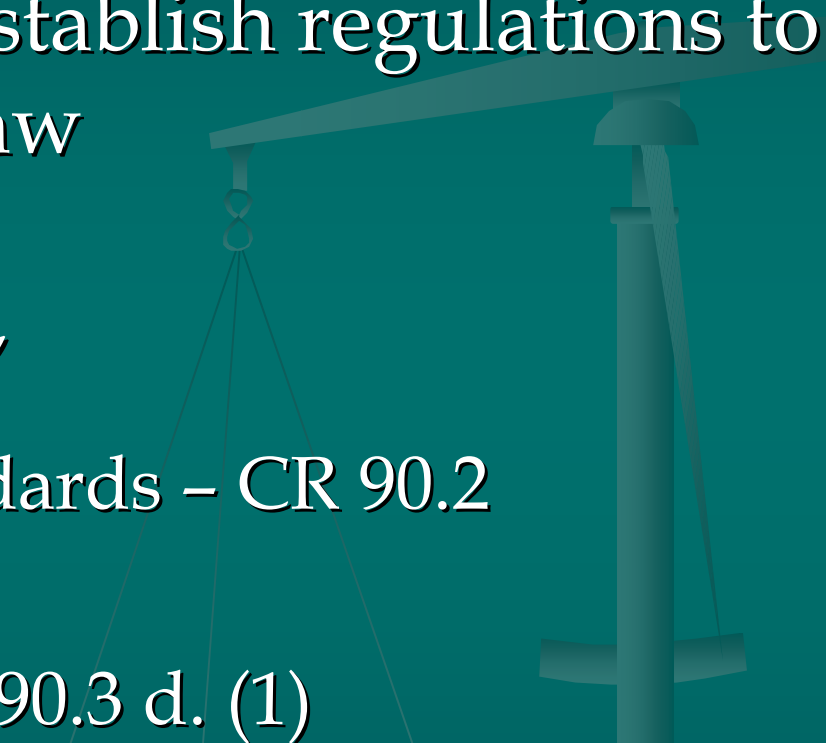
- Section 216 – Charters
 - Section 226 – Powers & Duties of Trustees
 - Section 253 – Definition of a Public Library
 - Section 254 – Standards
 - Section 255 – Establishment
- 

Education Law, continued


- Section 259 – Taxation
- Sec. 260 – Powers of Trustees; school district library authority
- Sec. 272 – Library Systems



Commissioner's Regulations

- Authorized to establish regulations to implement law
 - Most “popular:”
 - Minimum Standards – CR 90.2
 - Annual Reports
 - Direct Access – 90.3 d. (1)
- 

Decisions and Opinions

- Decisions of the Commissioner of Education
 - Opinions of the Office of the State Comptroller
 - Opinions of the Attorney General
 - Rulings of the Committee on Open Government
- 

Laws for Public Institutions



- General Municipal Law
 - Bidding and Procurement
 - Conflicts of Interest
- Public Officers Law
 - Indemnification
 - Open Meetings
 - Freedom of Information

<http://www.dos.state.ny.us/coog/coogwww.html>

- Civil Service Law

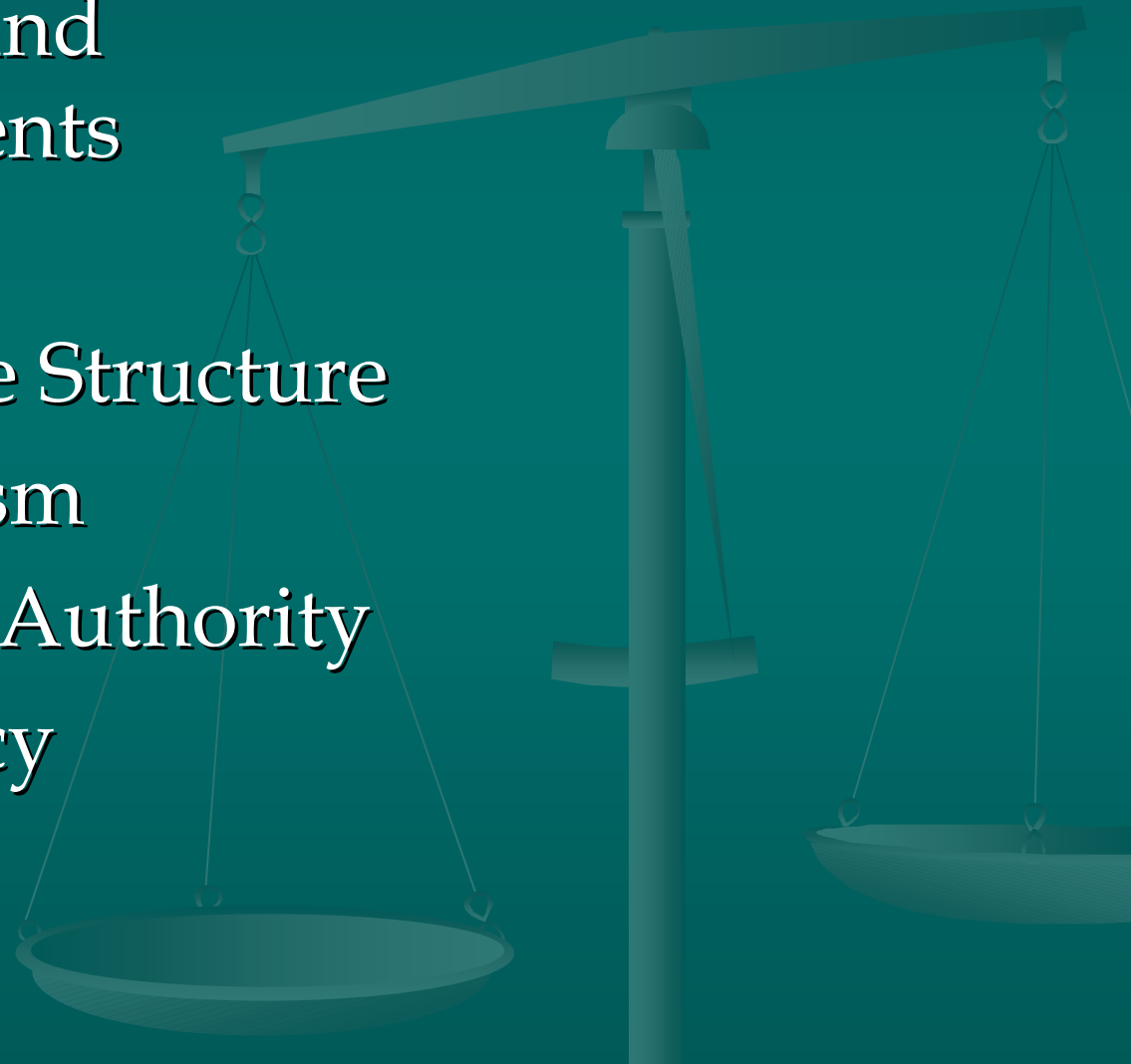
Laws for all Public Libraries



- Confidentiality of Library Records
 - Civil Practice Laws and Rules Sec.4509
- Open Meetings Law
 - Ed Law 260a

Board Organization

- Elections and appointments
- By-Laws
- Committee Structure
- Absenteeism
- Collective Authority
- Consistency



Effective Board Meetings



- Conduct of Meetings
- Agenda - Essential Components
- Board President's Role
- Director's Role
- Secretary/Minutes
- Parliamentary Procedures
- Dealing with the Public

SAMPLE AGENDA

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ADOPTION OF AGENDA
- * IV. APPROVAL OF MINUTES OF MEETING HELD – March 5, 2003
- V. PERIOD FOR PUBLIC EXPRESSION
- VI. CORRESPONDENCE
- * VII. PERSONNEL REPORT
- * VIII. TREASURER'S REPORT
 - A. Report of receipts and disbursements
 - B. Warrants
 - C. Presentation of projected cash flow
- IX. ADMINISTRATORS' REPORTS
- X. COMMITTEE REPORTS
- XI. OLD BUSINESS
- XII. NEW BUSINESS
- XIII. PERIOD FOR PUBLIC EXPRESSION
- XIV. DATES OF FUTURE BOARD MEETINGS

Wednesday, Dec 6, 2006

Wednesday, January 3, 2007


Wednesday, February 7, 2007

XV. OTHER

Executive Session: Director's Annual Performance Evaluation

* action required

Effective Board Meetings

- Conduct of Meetings
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 - Parliamentary Procedures
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- 

LEGAL




- Open Meetings Law
- Freedom of Information
- Meeting Notices
- Rights of Public at Meetings
- Quorum/Voting
- Rights/Liabilities of Individual Trustees
- Content of Minutes
- Executive Sessions

FINANCIAL

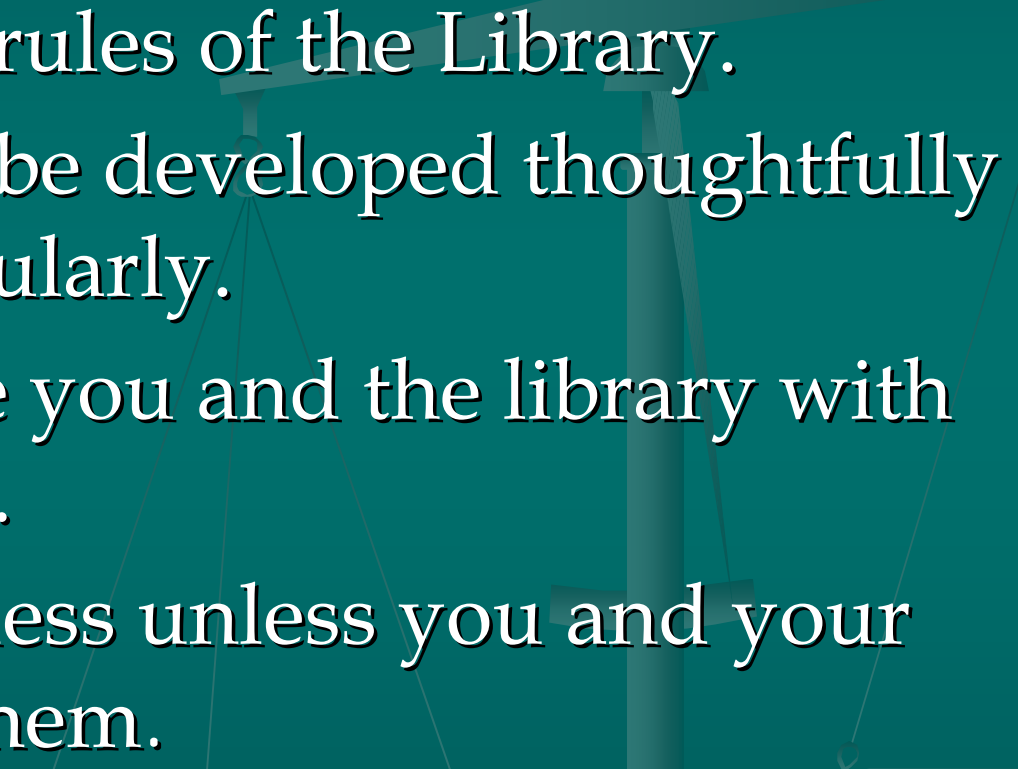


- Responsibility of Treasurer
 - (as appointed by Board)
- Responsibility of Finance Officer
 - (Board member)
- Content of Financial Reports
- Approval of Reports
- Vouchers/Warrants/Pre-pays
- Appropriate Use of Reserve Funds
- What Needs Approval, What Doesn't
- Compliance with State Investment Policy

PERSONNEL

- Standard Practices & Procedures
 - Responsibilities for Selection
 - “Appoint” vs. “Select”
 - “After the Fact” approval by Trustees
 - Compliance with Civil Service Regulations
 - Liability of Trustees for Non-compliance
 - Termination
- 

Library Policies


- Policies are the rules of the Library.
 - Policies should be developed thoughtfully and revised regularly.
 - Policies provide you and the library with legal protection.
 - Policies are useless unless you and your patrons know them.
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Essential Policies



- Board Policies
 - Meeting protocols
 - Ethics and conflicts of interest
- Operational Policies
 - Library hours and days open
 - Lending rules, Internet access, etc.
 - Patron behavior

Essential Policies, continued

- Collection Management
 - Selection
 - Intellectual Freedom
 - Challenges to library materials
 - Facilities and Emergencies
 - Crisis management
 - Inclement weather
- 

Essential Policies, continued

- Personnel Policies
 - Staff Manuals
 - Union Contracts
 - Employee acknowledgement
 - The Library as a “Limited” or “Designated” Public Forum
 - Sample Policies
 - <http://www.owlsweb.info/L4L/policies/sample.asp>.
 - <http://winslo.state.oh.us/publib/policies.html>
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Trustee Information Resources

- NYS Trustee handbook – general responsibilities:
<http://www.nysl.nysed.gov/libdev/pltrust/handbook/index.html>
- NYSALB – NY State Association of Library Boards:
<http://www.nysalb.org/>
- Commissioner's Decisions www.counsel.nysed.gov/Decisions/
- Comptroller's Opinions www.ocs.state.ny.us/legal/index.htm
- NYS Attorney General's Opinions
www.oag.state.ny.us/lawyers/opinions/opinion.html
- Division of Library Development
www.nysl.nysed.gov/libdev/libs/index.html

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