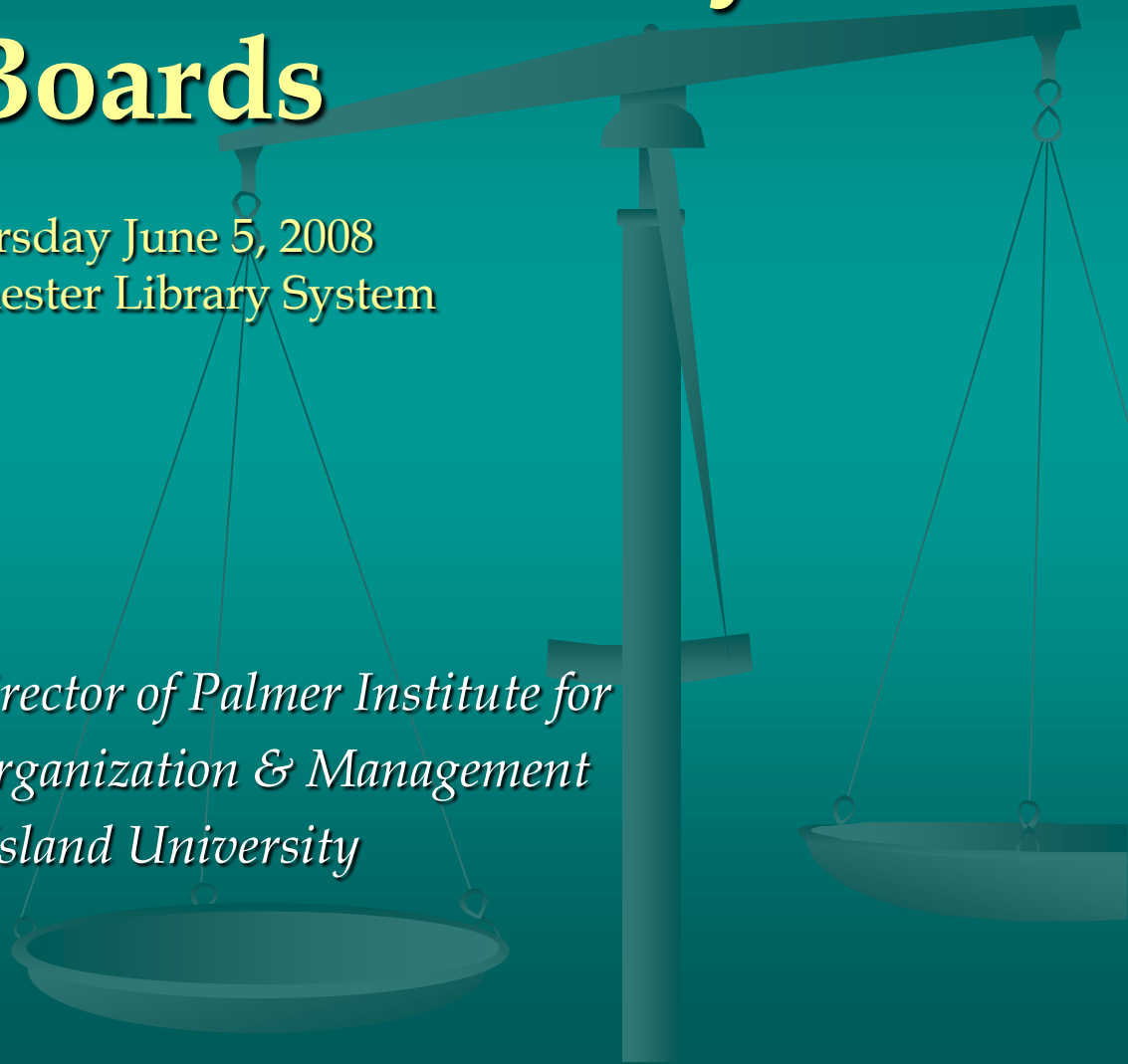


Westchester Library System Trustee Institute

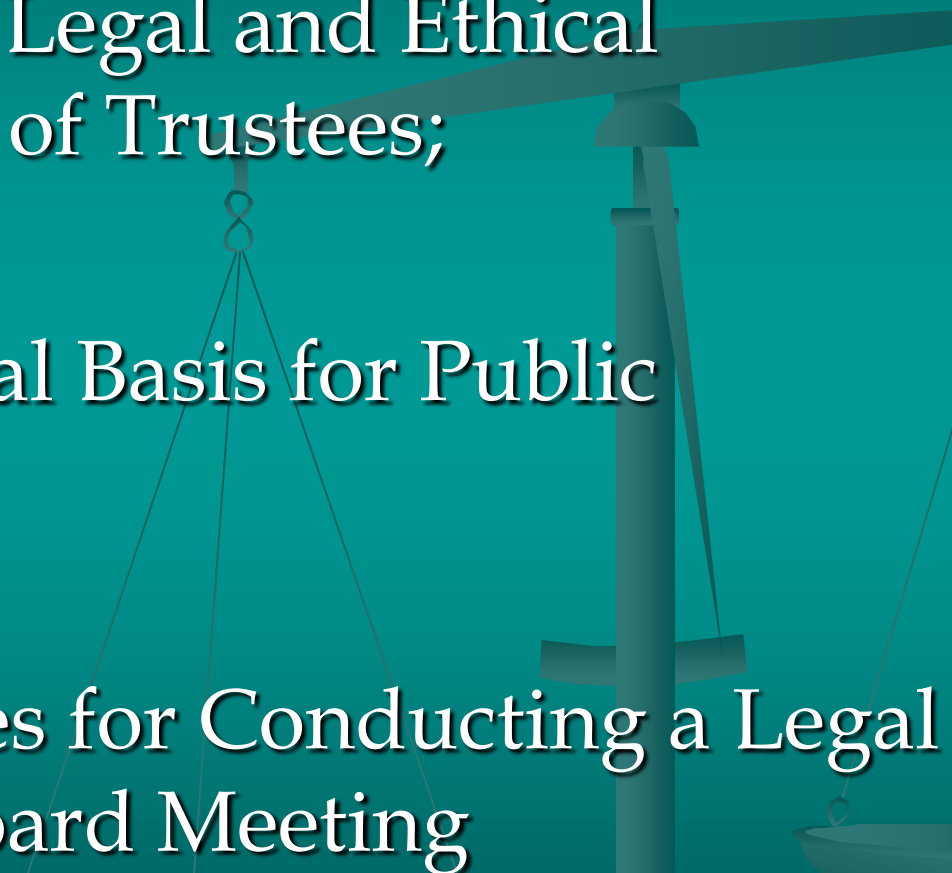
# Legal Issues for Library Boards

Thursday June 5, 2008  
Westchester Library System


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



# Workshop Objectives

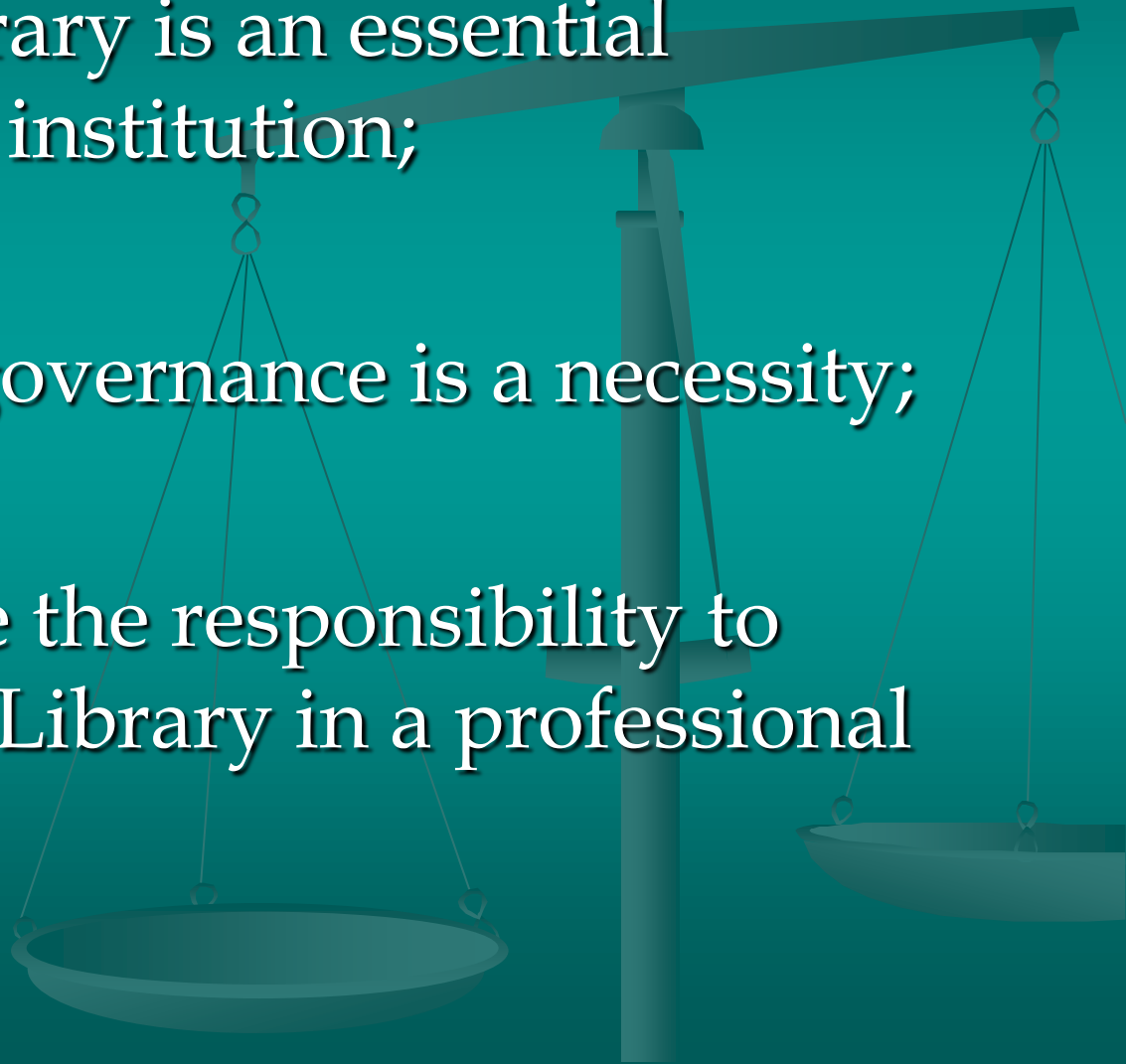
- Understand the Legal and Ethical Responsibilities of Trustees;
  - Explore the Legal Basis for Public Libraries;
  - Review the Rules for Conducting a Legal and Effective Board Meeting
- 

# 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.



# 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 Personnel;
- Establish Policies.

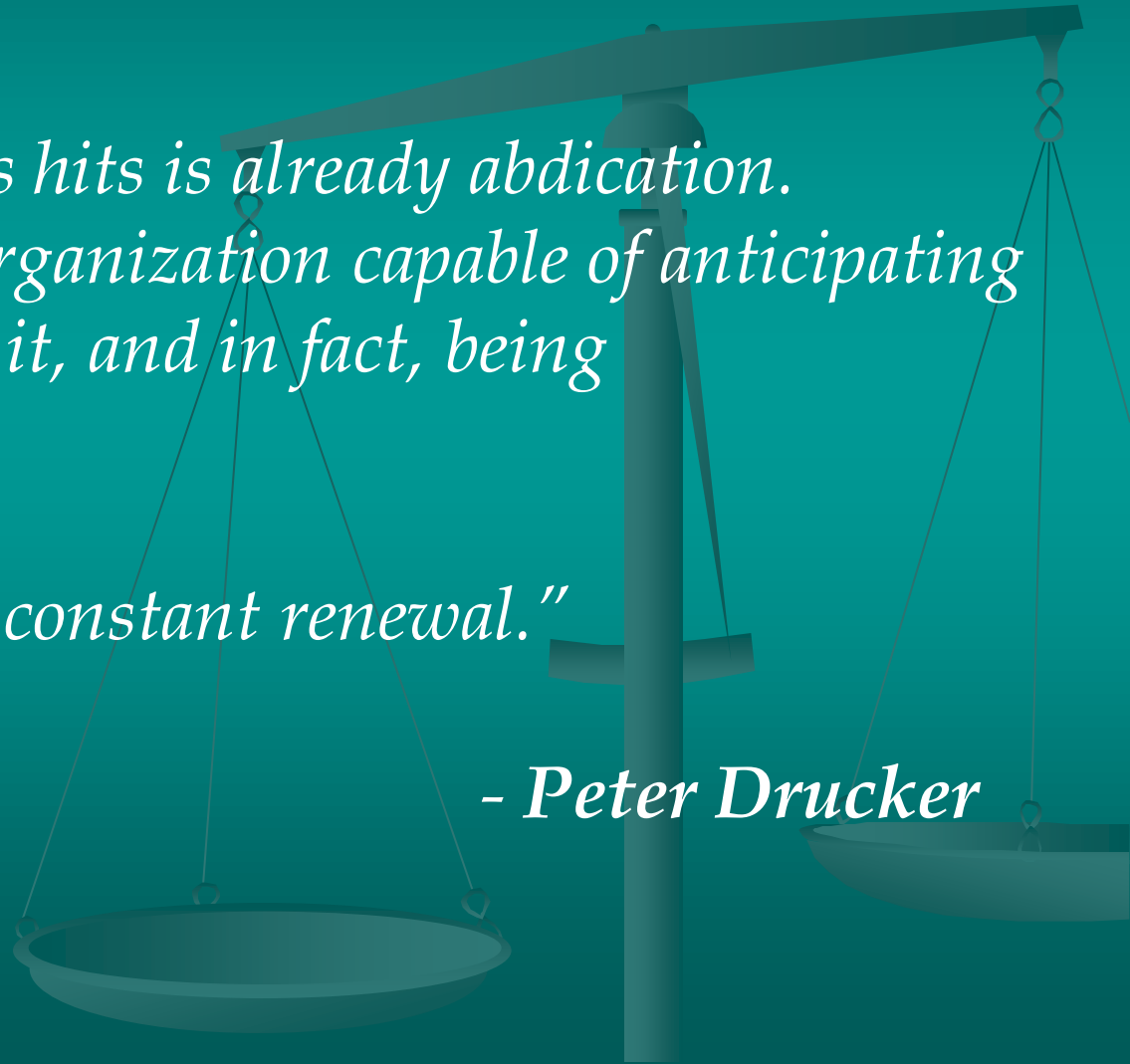


*“The most important task of an organization’s leader is to anticipate crisis. Perhaps not to avert it, but to anticipate it.*

*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*



# 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.*

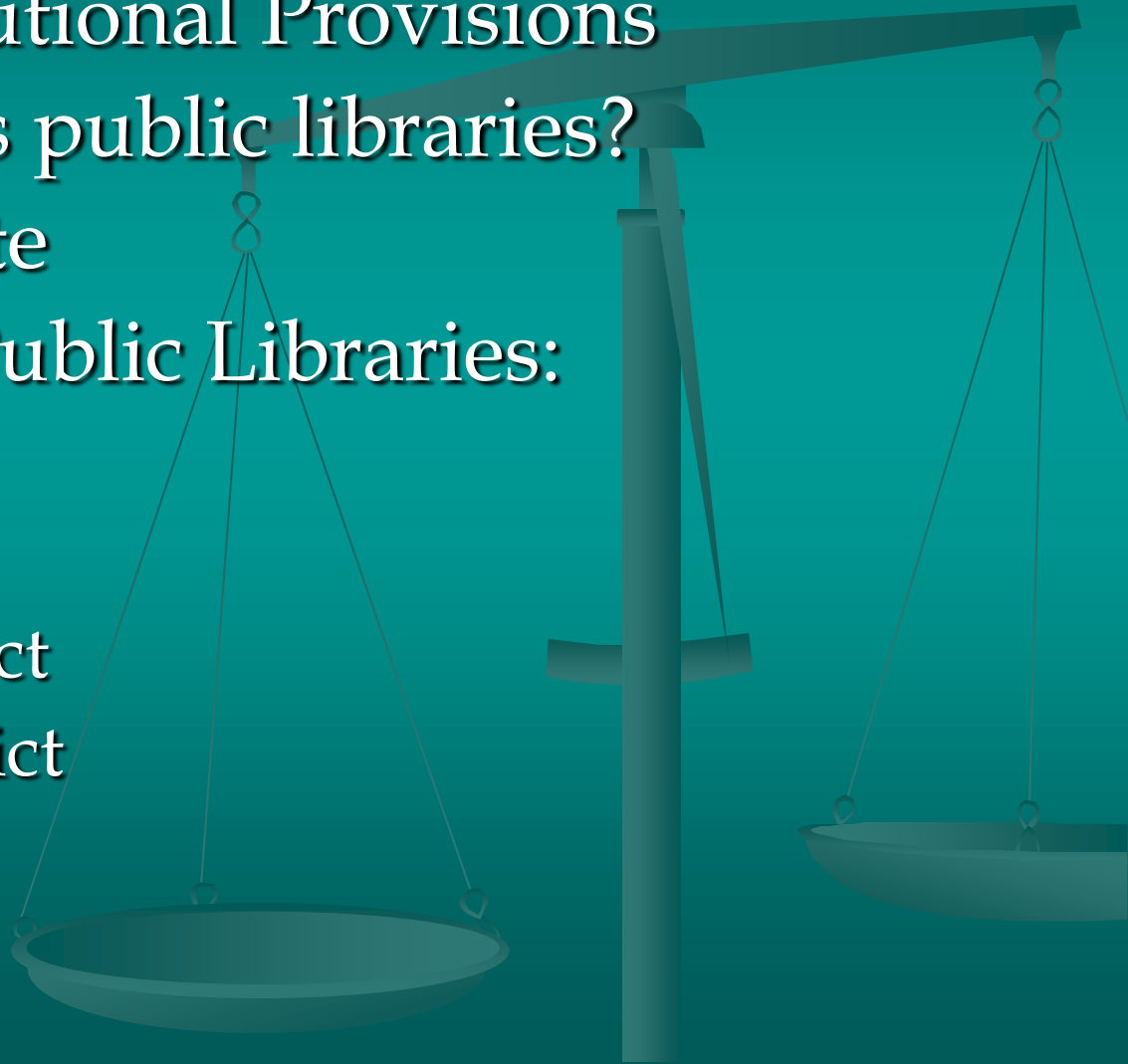
# Critical Documents

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



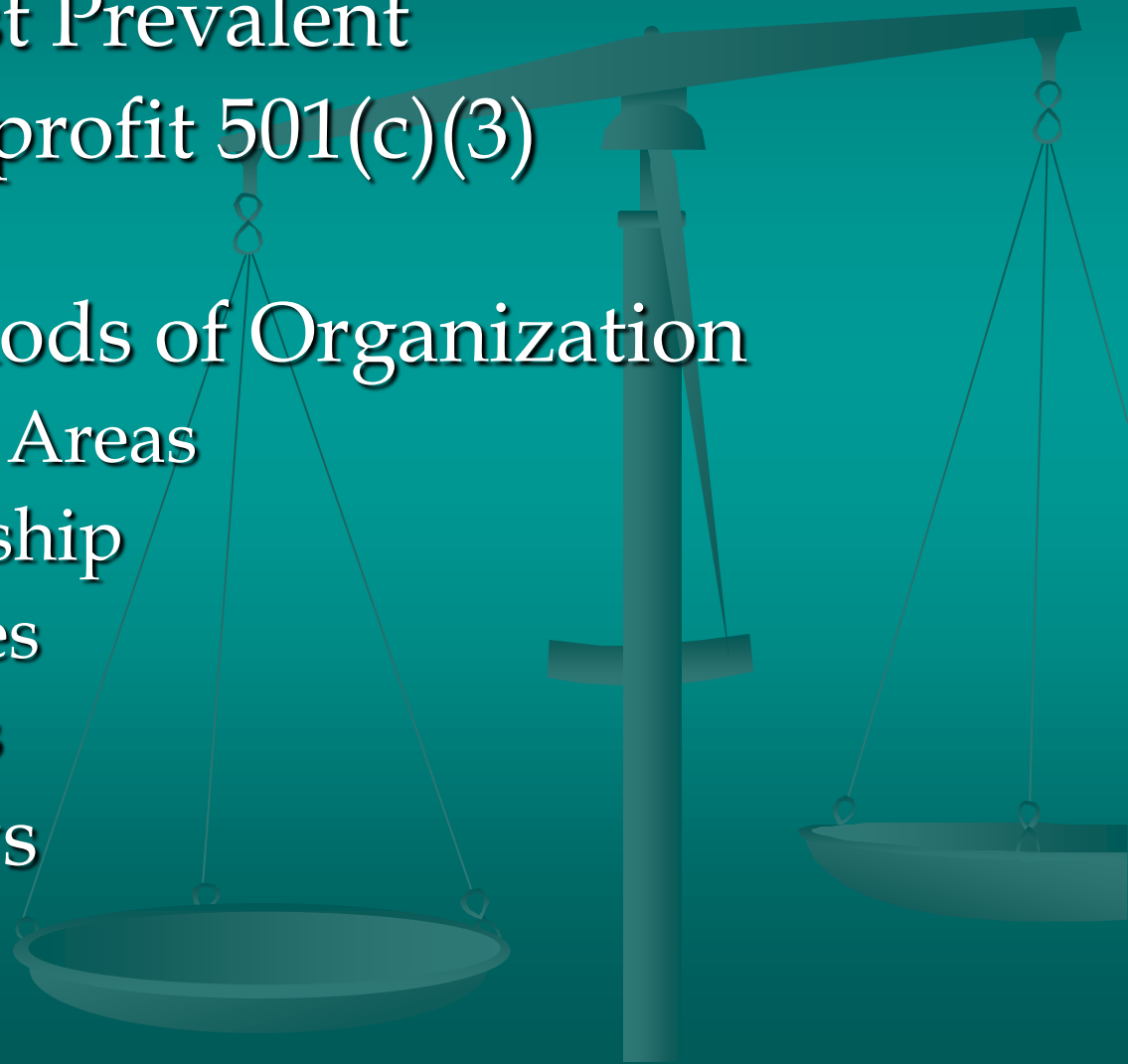
# Types of Public Libraries

- 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



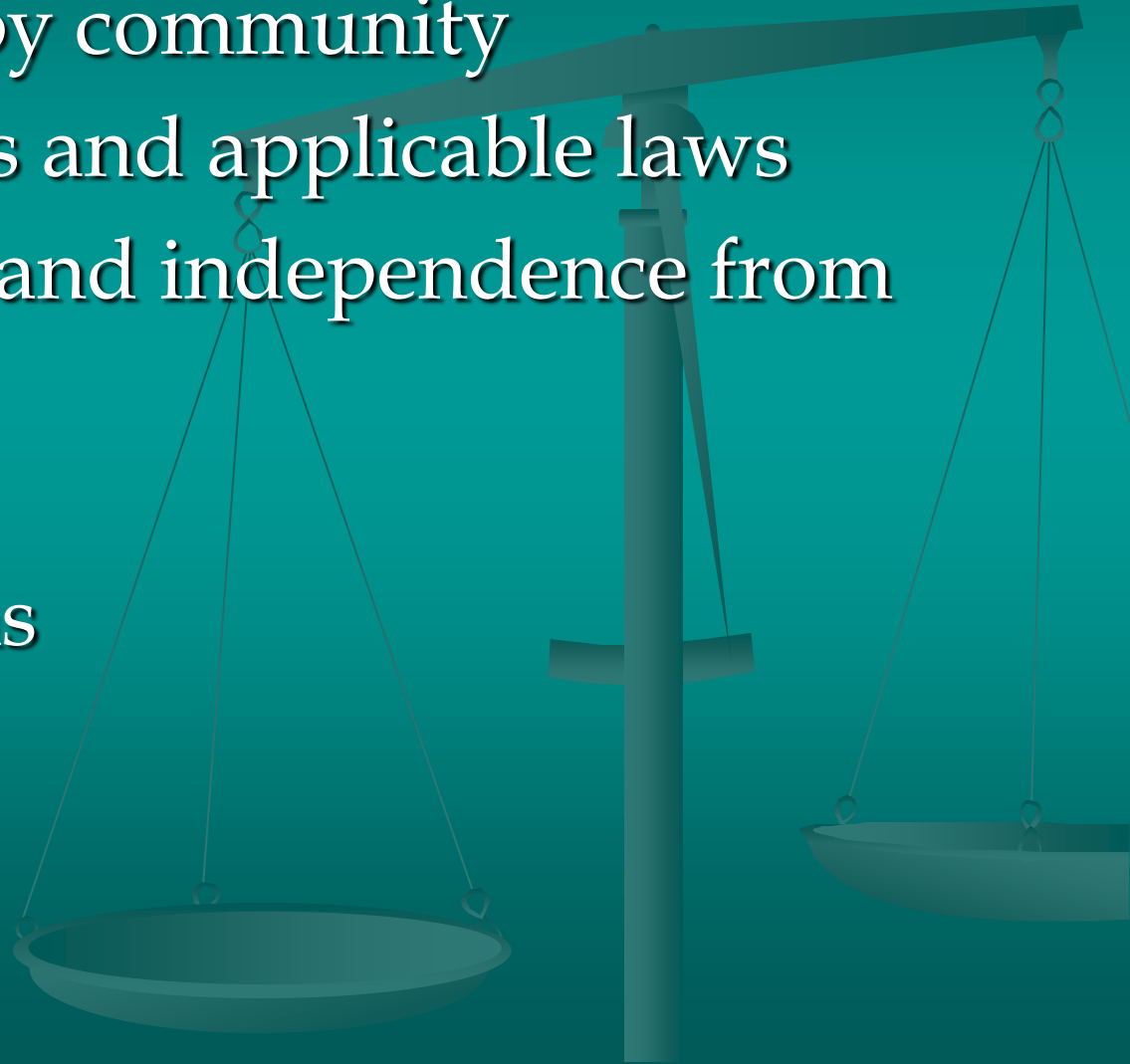
# Municipal Libraries

- 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



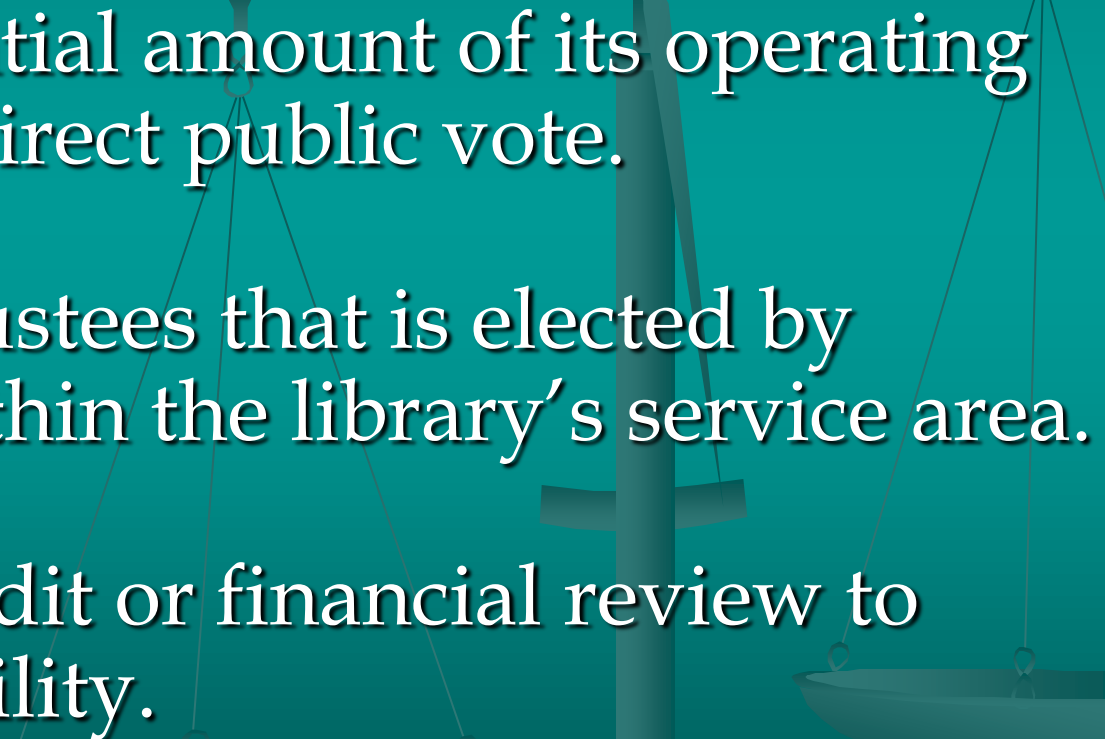
# Special District Libraries

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

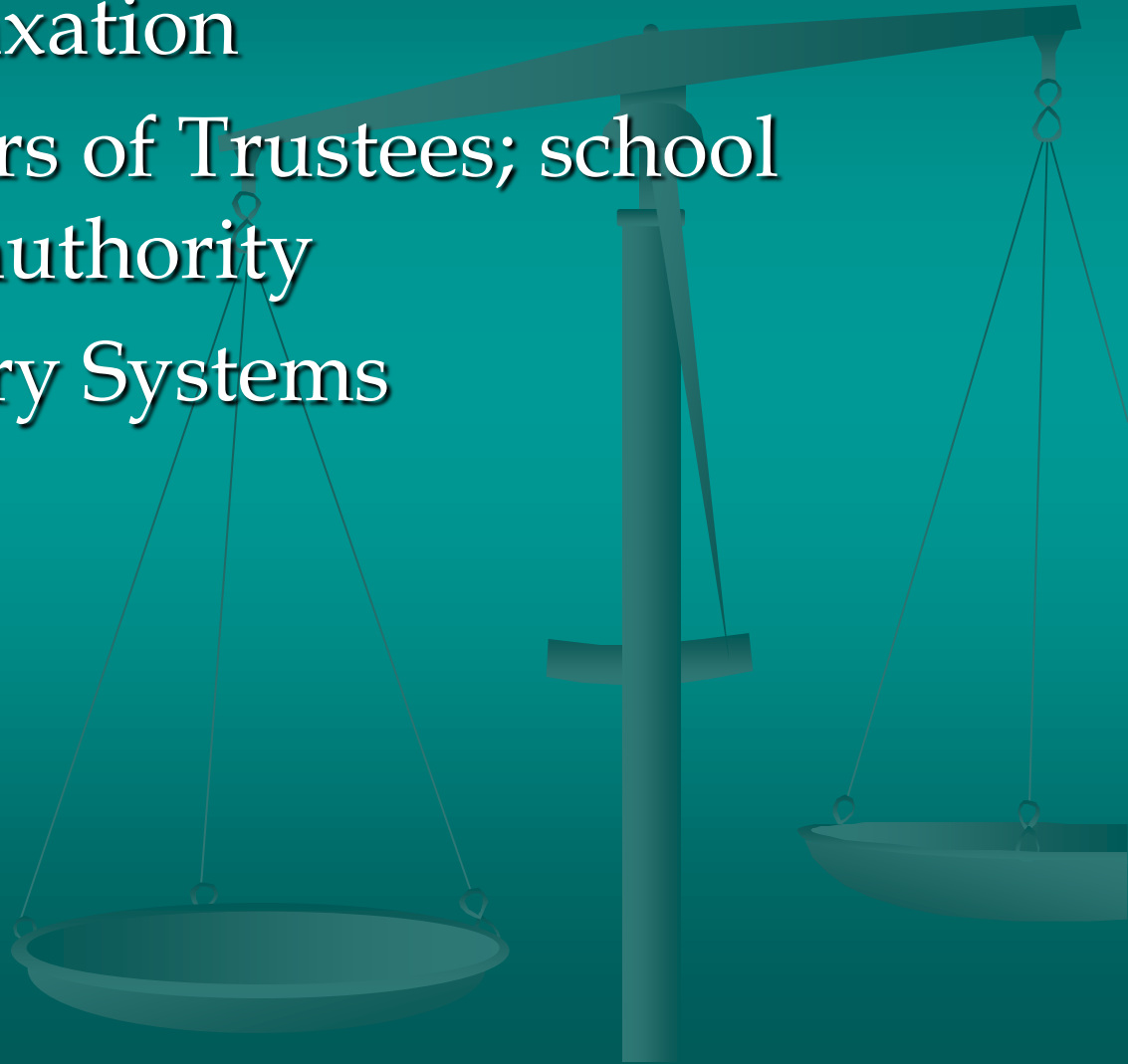
# Education Law – Critical Sections

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



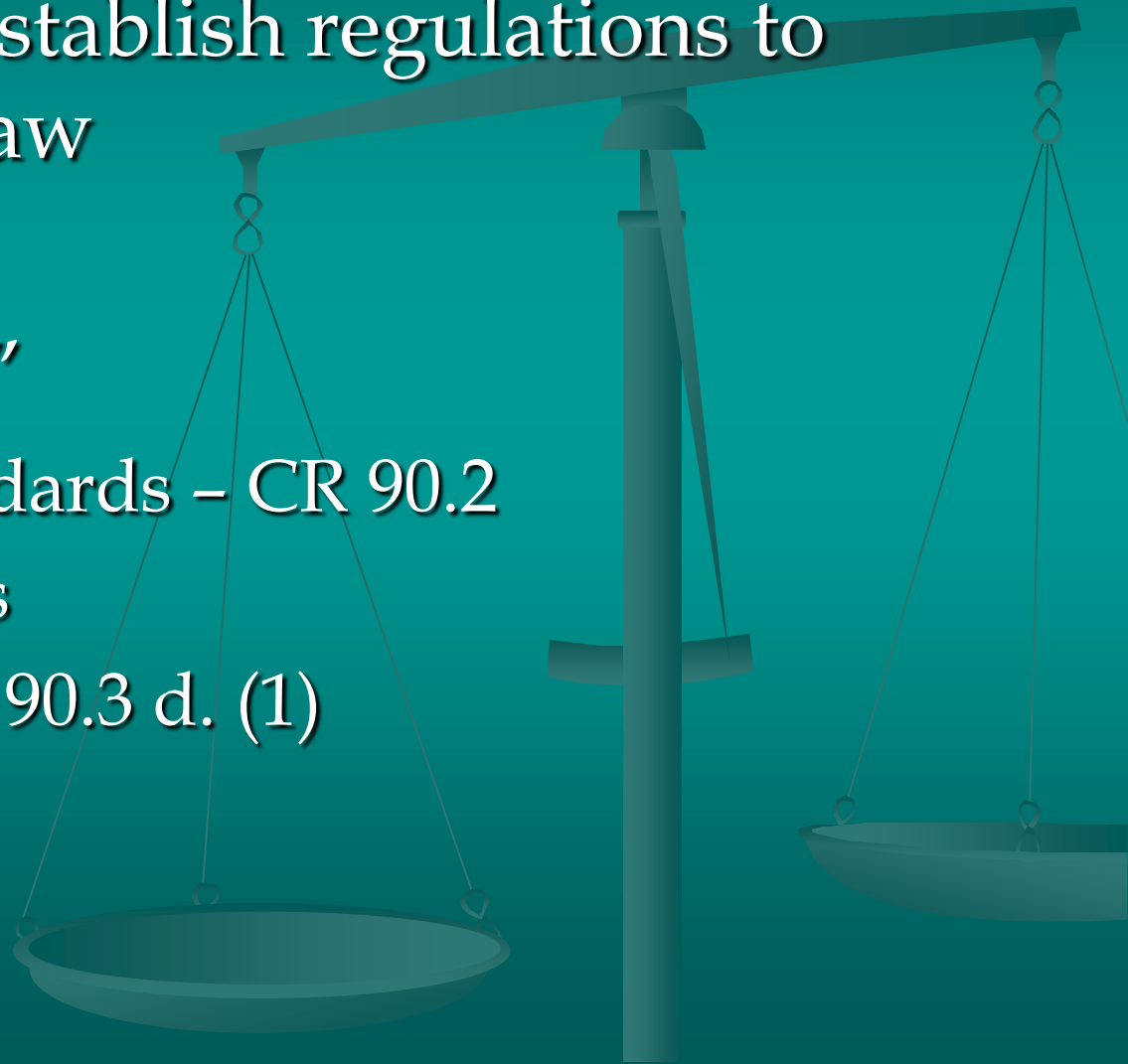
# Education Law, continued

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



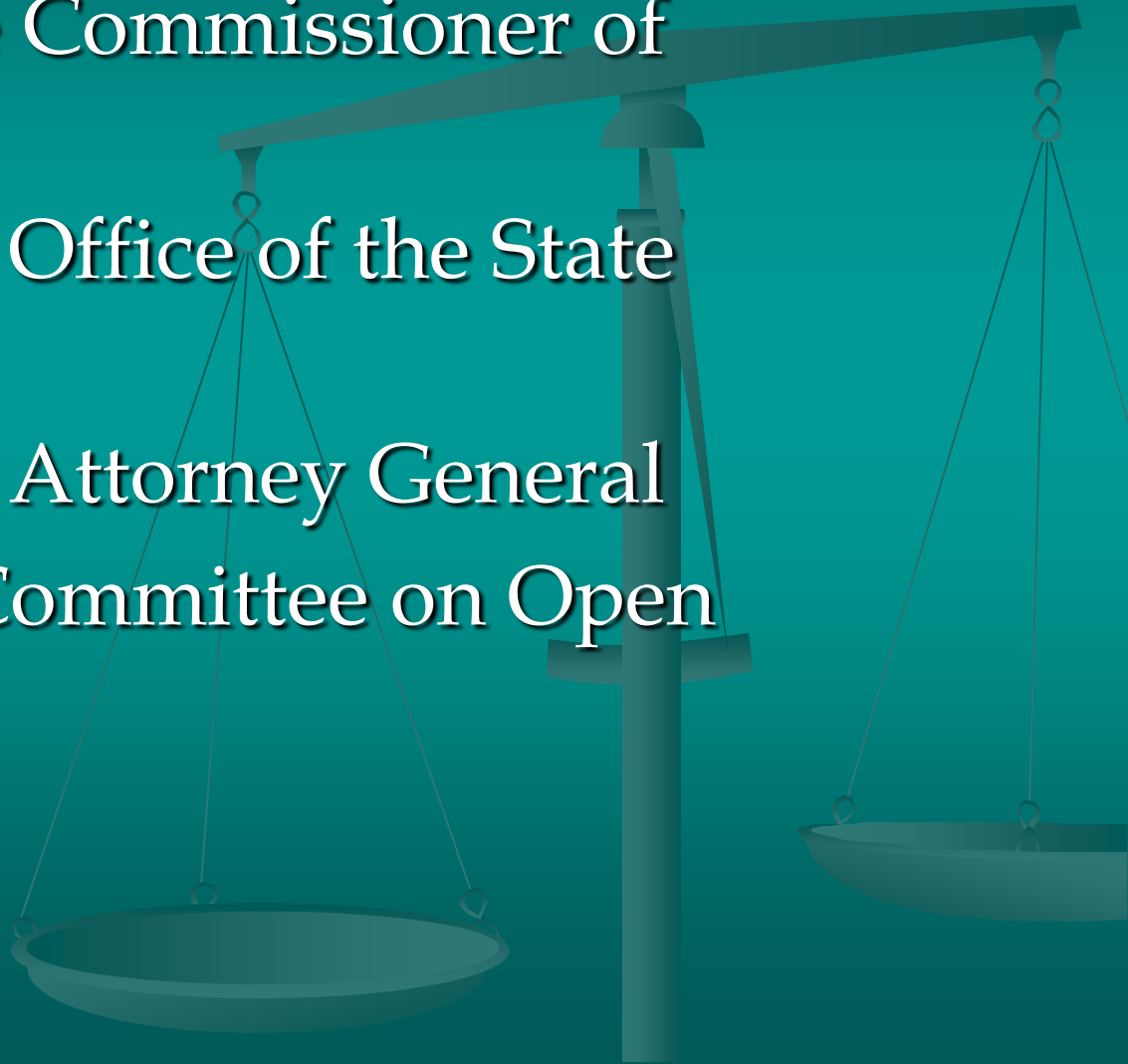
# Commissioner's Regulations

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



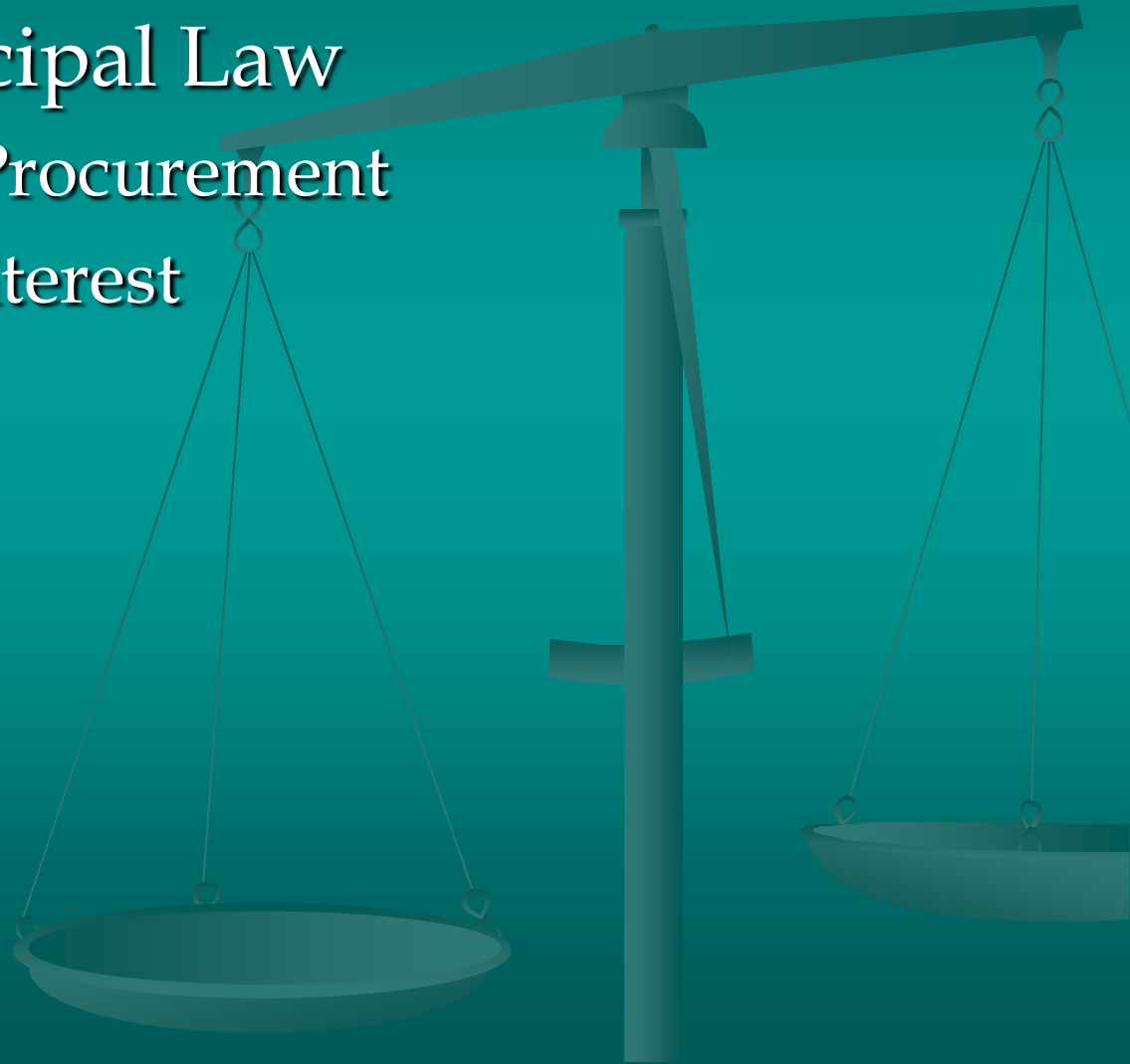
# Decisions and Opinions

- 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
- Labor Law
  - Hour & Wage
  - Safety
  - “Wicks” Law



# Laws for Public Institutions, continued

- Public Officers Law
  - Indemnification
  - Open Meetings
  - Freedom of Information

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

- Civil Service Law
  - Section 75



# Laws for all Public Libraries

- Confidentiality of Library Records
  - Civil Practice Laws and Rules Sec.4509
- Open Meetings Law
  - Ed Law 260a
- Labor Law
  - Hour & Wage
  - Safety



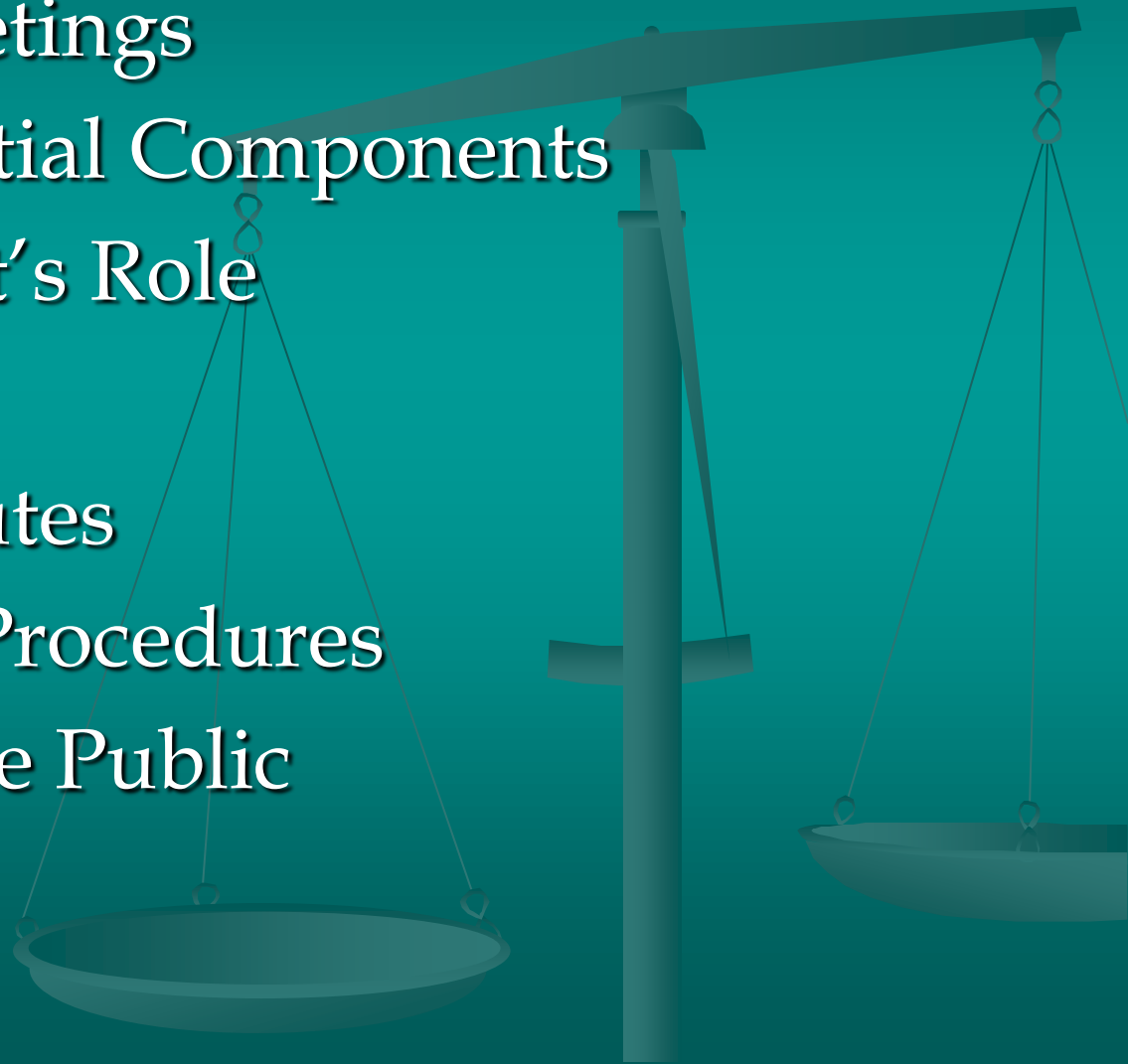
# Board Organization

- 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

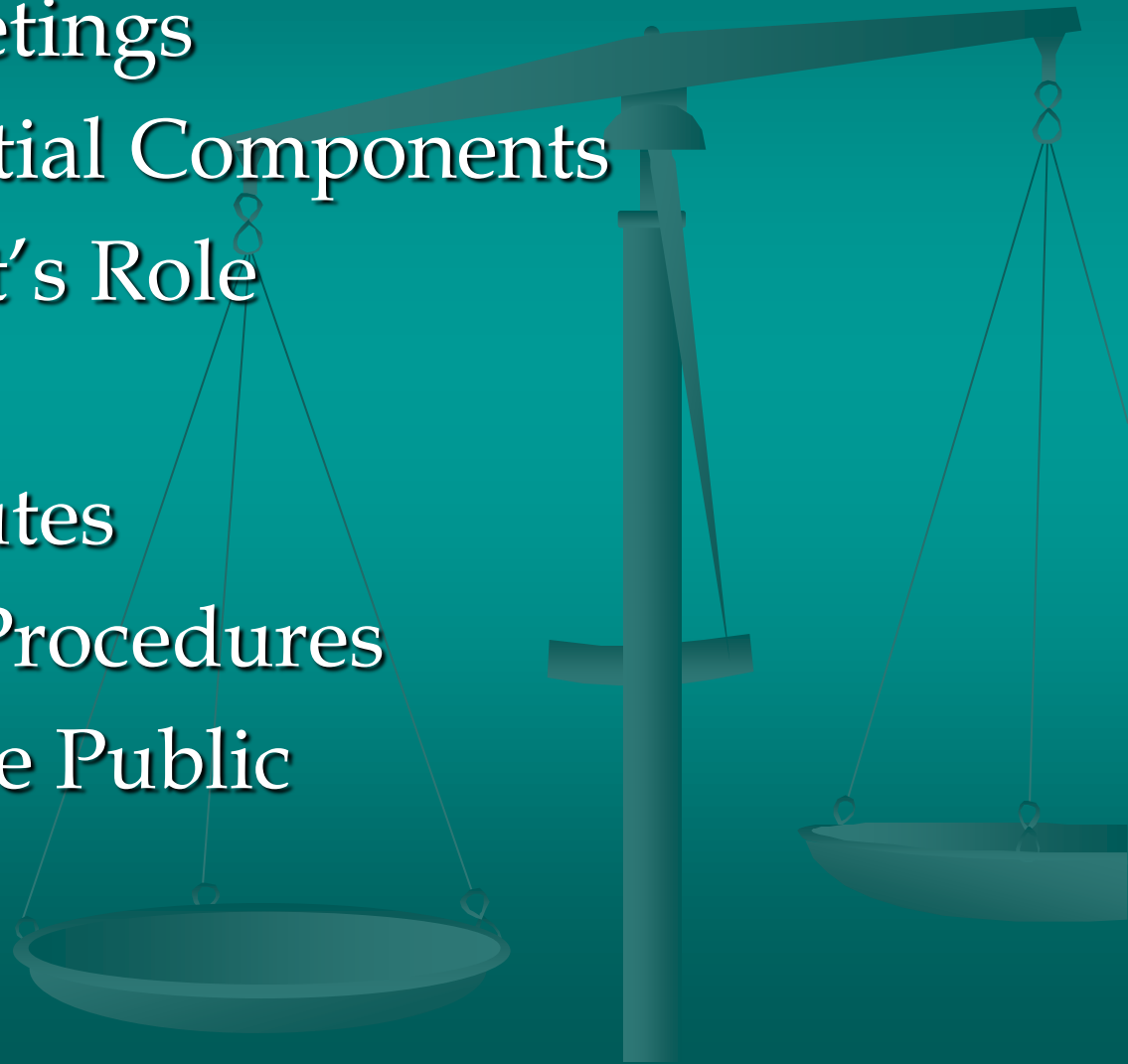
**Executive Session:** Director's Annual Performance Evaluation

\* action required



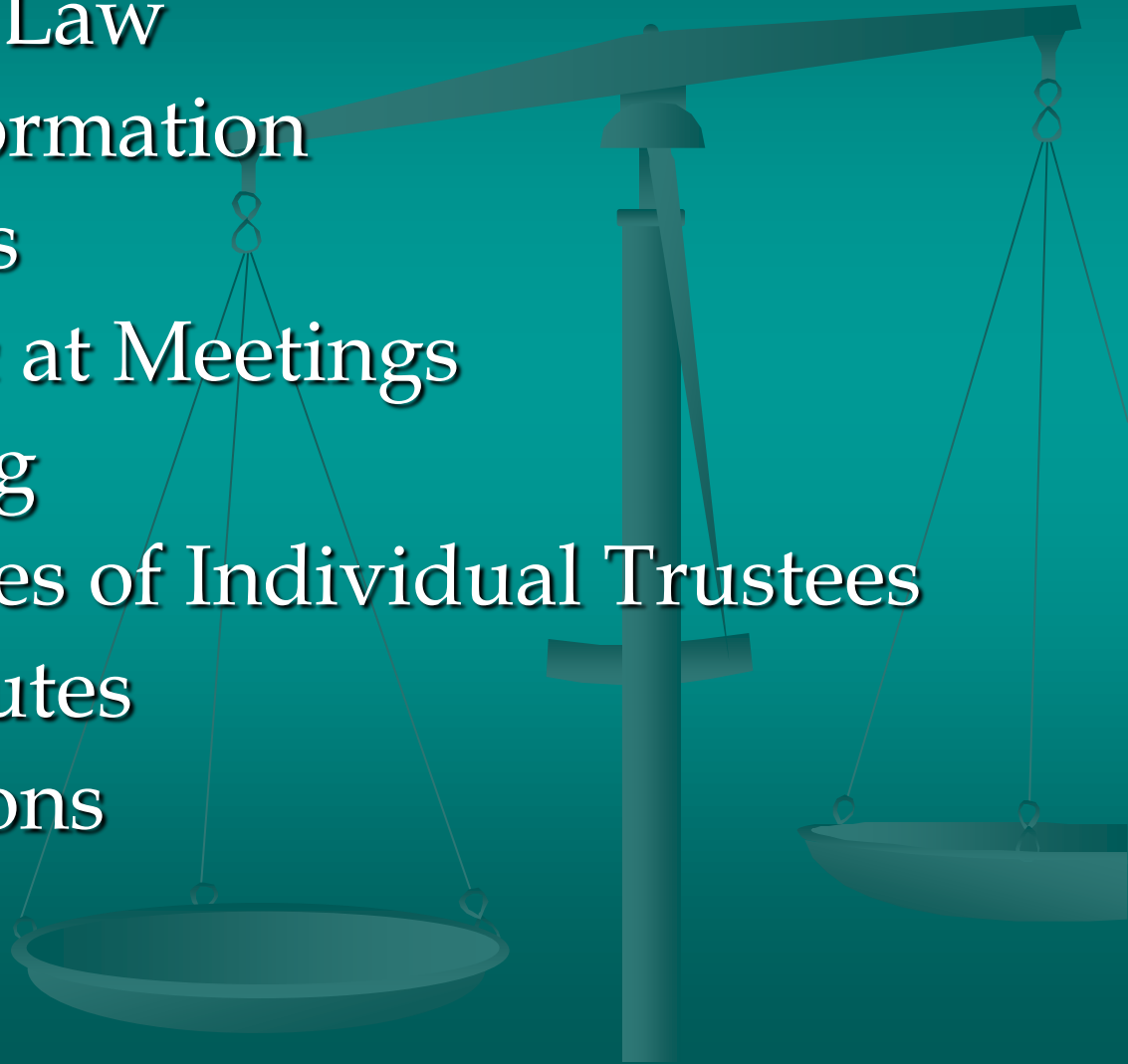
# Effective Board Meetings

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




# 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



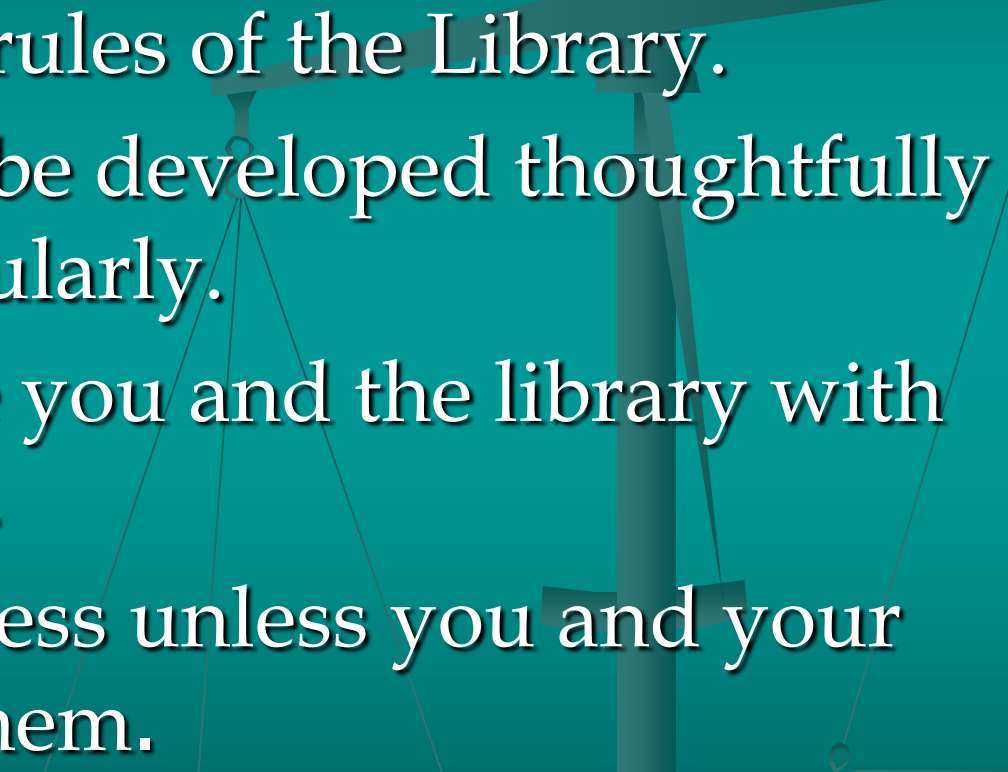
# Financial

- 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

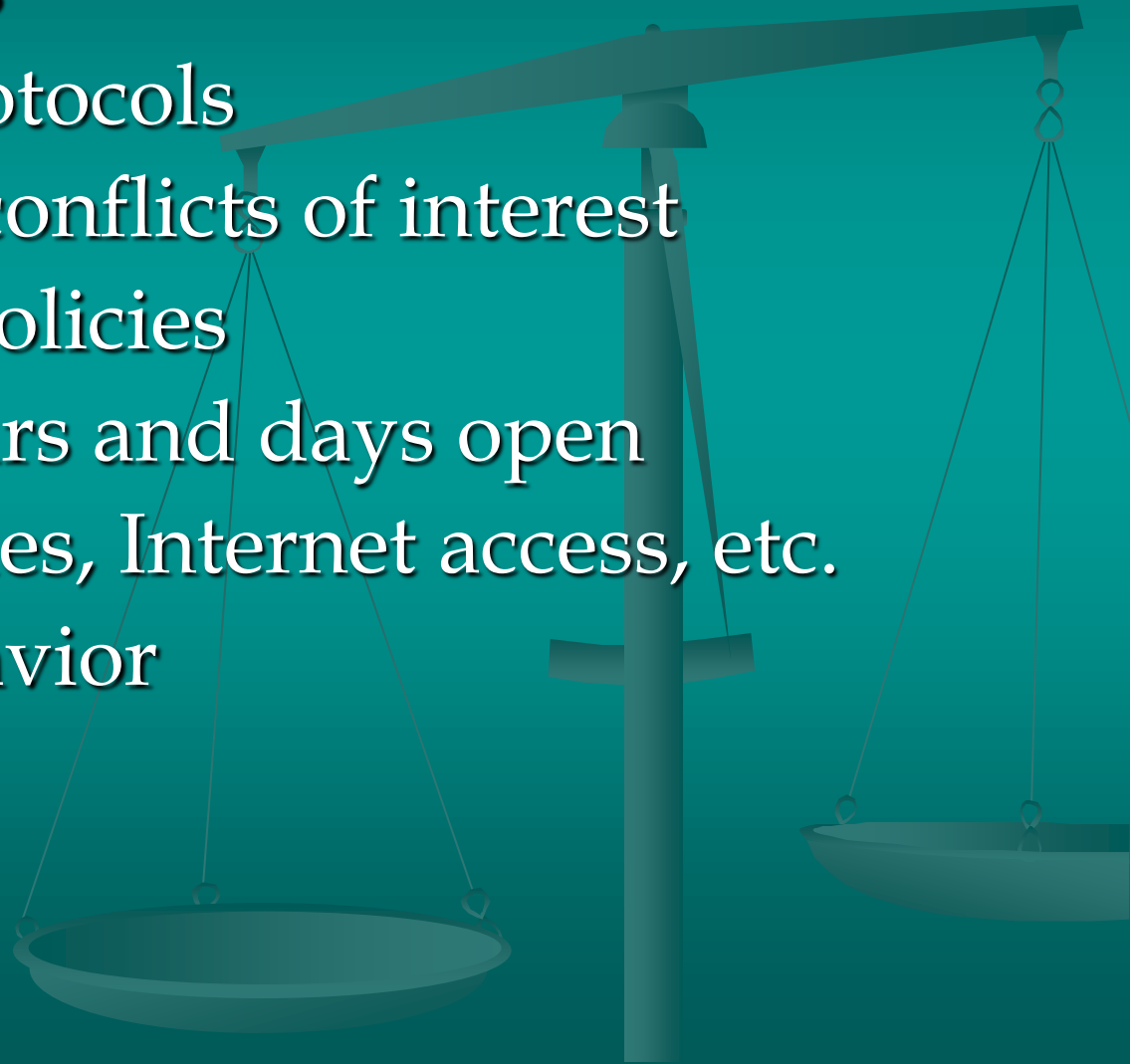
- Standard Practices & Procedures
  - Responsibilities for Selection
    - “Appoint” vs. “Select”
  - “After the Fact” approval by Trustees
  - Compliance with Civil Service Regulations
  - Liability of Trustees for Non-compliance
  - Termination
- 

# 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.
- 

# 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>



# Trustee Ethics



## ■ Conflicts of Interest

### ■ General Municipal Law; Sec. 800

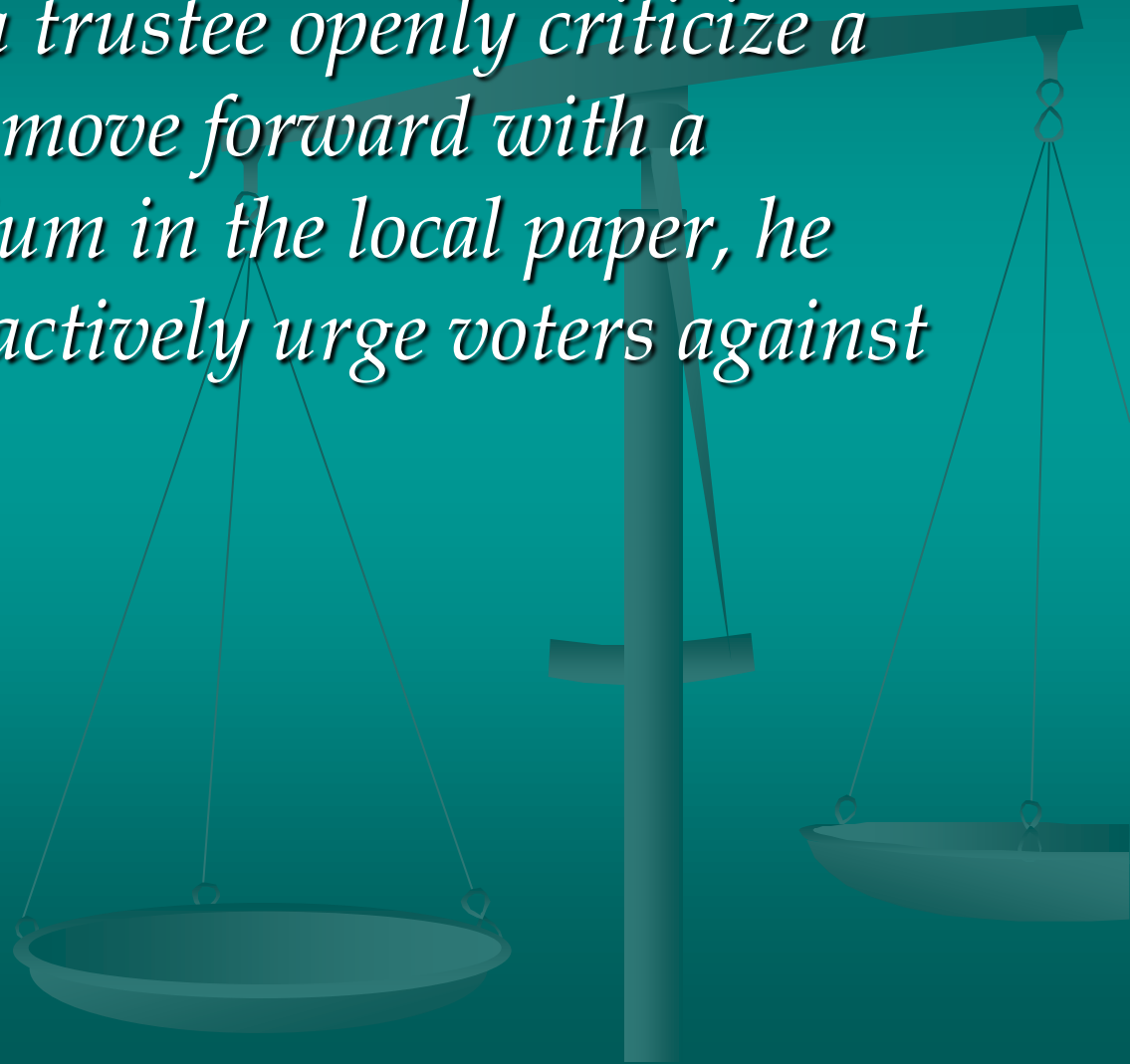
- *“no officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee...”*
- Inclusion of family members
- “Free” services prohibited

### ■ 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.”*



# 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/](http://www.counsel.nysed.gov/Decisions/)
- Comptroller's Opinions [www.osc.state.ny.us/legal/index.htm](http://www.osc.state.ny.us/legal/index.htm)
- NYS Attorney General's Opinions  
[www.oag.state.ny.us/lawyers/opinions/opinion.html](http://www.oag.state.ny.us/lawyers/opinions/opinion.html)
- Division of Library Development  
[www.nysl.nysed.gov/libdev/libs/index.html](http://www.nysl.nysed.gov/libdev/libs/index.html)
- <http://midhudson.org/trustee/main.php>
- <http://www.westchesterlibraries.org/node/39>

Westchester Library System Trustee Institute

# Legal Issues for Library Boards

Thursday June 5, 2008  
Westchester Library System

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

