

LIBRARY BOARDS AND TRUSTEES & THE LIBRARY LAW

Frequently Asked Questions

A LIBRARY BOARD IS ULTIMATELY RESPONSIBLE FOR THE FOLLOWING:

- Sound fiscal management of the library
- Service philosophy appropriate for the total community
- Programs which implement that philosophy
- Equitable personnel management practices within the library
- All legal and ethical aspects of the library's operation

1. Must my library comply with Colorado library law, CRS 24-90-101 *et seq.* ?

Statutory municipality or county: YES

Home-rule municipality or county: Only if local government has chosen to adopt the library law. If library law has not been adopted, the library is governed by local ordinances. When there is a conflict between local ordinances and library law, CRS 24-90-101 *et seq.* prevails.

Library District: YES

2. Is my board governing or advisory?

Colorado library law does not clearly define “governing” or advisory” library boards of trustees. In CRS 24-90-108-(1) the law gives a board of trustees, “The management and control of any library...” This management and control is limited somewhat for county and municipal libraries in CRS 24-90-109-(1)(e)(l) when those boards are given spending and disbursement authority, but authority only over the funds appropriated by the legislative body, i.e. city/town council or county commissioners. “The management and control of any library...” phrase also is not specific about how much or over which specific functions these are exercised, such as personnel.

Municipality / County

Another limitation for municipal and county libraries is 24-90-108-(2) (a) and (b). This section requires library boards to be appointed by the mayor with approval of city council, and by the board of county commissioners. While the board of trustees does not control appointment of board members, it should recommend and influence the recommendation by council and commissioners to assure that all segments of the community are equally represented.

Some municipal and county attorneys interpret the law to give total governance of the library to the board of trustees. Some do not. In those municipalities and counties where it is recognized as total governing responsibility, the board should function as the final decision-making body. In those where it is not recognized as the total governing responsibility, the board should make final decisions in those areas that decision-making authority has been given them through municipal or county ordinance or resolution. These boards should work diligently to influence the municipal council or county commissioners in the decisions they choose in those areas of responsibility not given to the board.

So, is your municipal or county library board advisory or governing? Your local board has as much governing authority as the municipal or county attorney interprets the law to give you, and as much as the board can influence the council or board of county commissioners to grant to the library board. Note that *written agreements* with the governing entity are the best way to assure that a public library board continues to exercise the power it believes it has.

Library District

Library district boards of trustees fall under “the management and control of any library...” statement and also have the authority to appropriate funds for the district library. This gives them powers not given to municipal and county boards. They also can decide when a mill levy increase, and its amount, should be placed on a ballot and commissioners are required to place it on the next ballot.

In library districts, the first board appointed after the election to establish the district is selected by a committee of two members of the legislative body or bodies which established the district. The board appointments thereafter are approved by this legislative body or bodies. Most district boards recommend names of new board members and the legislative bodies automatically approve the list. Some legislative bodies select and approve new board members. The law does not specify one way or the other.

School District

In school districts, the board of trustees shall be appointed by the school board.

3. What are term lengths for boards?

Questions sometimes arise about the length and number of terms a trustee may serve. CRS 24-90-108-(3) (a) specifies the length of terms for the first board that is appointed and, for library districts, how the length and number of future terms is to be determined. Thereafter, district board members are appointed for the length of term specified either in the bylaws or by the legislative body. The number of consecutive terms is specified by the bylaws or by the legislative body. The law is not specific about how or who determines the length and number of terms for municipal or county libraries. Other specifics under CRS 24-90-108 include where trustees must reside, whether they can receive compensation, and under what conditions a trustee may be removed from the board.

4. What are board duties and responsibilities?

The Colorado Library Law specifically defines the powers and duties of library boards in CRS 24-90-109. Sections (1) (c), (g) (l), (j), (n) and (p) present some problematic responsibilities. Municipal and county boards cannot employ personnel, acquire land, purchase or erect a building, borrow funds, or enter into contracts. This section lends credence to the argument that it is the city council or county commissioners who are the "Board of Trustees" and the library board is advisory to them. *Some local county or library attorneys have interpreted the law to give the advisory board all of these things and have a written document affirming it. In that case, the written document gives the governing authority to the library board.* Certainly, any library board should be as active as possible in advising in these areas if the legislative body has not officially delegated these duties to the library board.

CRS 24-90-109-(1) (e) is very specific that all city, county, and library district boards have..."exclusive control and spending authority over the disbursement of library funds." What money goes into the library fund are clearly specified in CRS 24-90-112-(2) (a) as "...whether derived from taxation, gift, sale of library property, or otherwise." This section goes on to say that the treasurer of the municipality or county, upon the request of the board of trustees, may transfer moneys into the custody of the board, but that the board must carry a bond for this purpose and make monthly accountings to the treasurer and have an annual audit performed and submit it to the treasurer.

All library boards are also given the authority to request of the city or county that an election be held to change the mill levy. A library district may submit a mill levy increase on its own behalf. CRS 24-90-112 (1) (b) (I) (III) Approval of any tax levy must also conform to the requirements of TABOR.

A library district may also submit a general obligation bond for capital improvements to the voters on its own authority. CRS 24-90-112.5

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For further Public Library Information: www.cde.state.co.us/cdelib/LibDev/PubLib/publibrary.htm



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