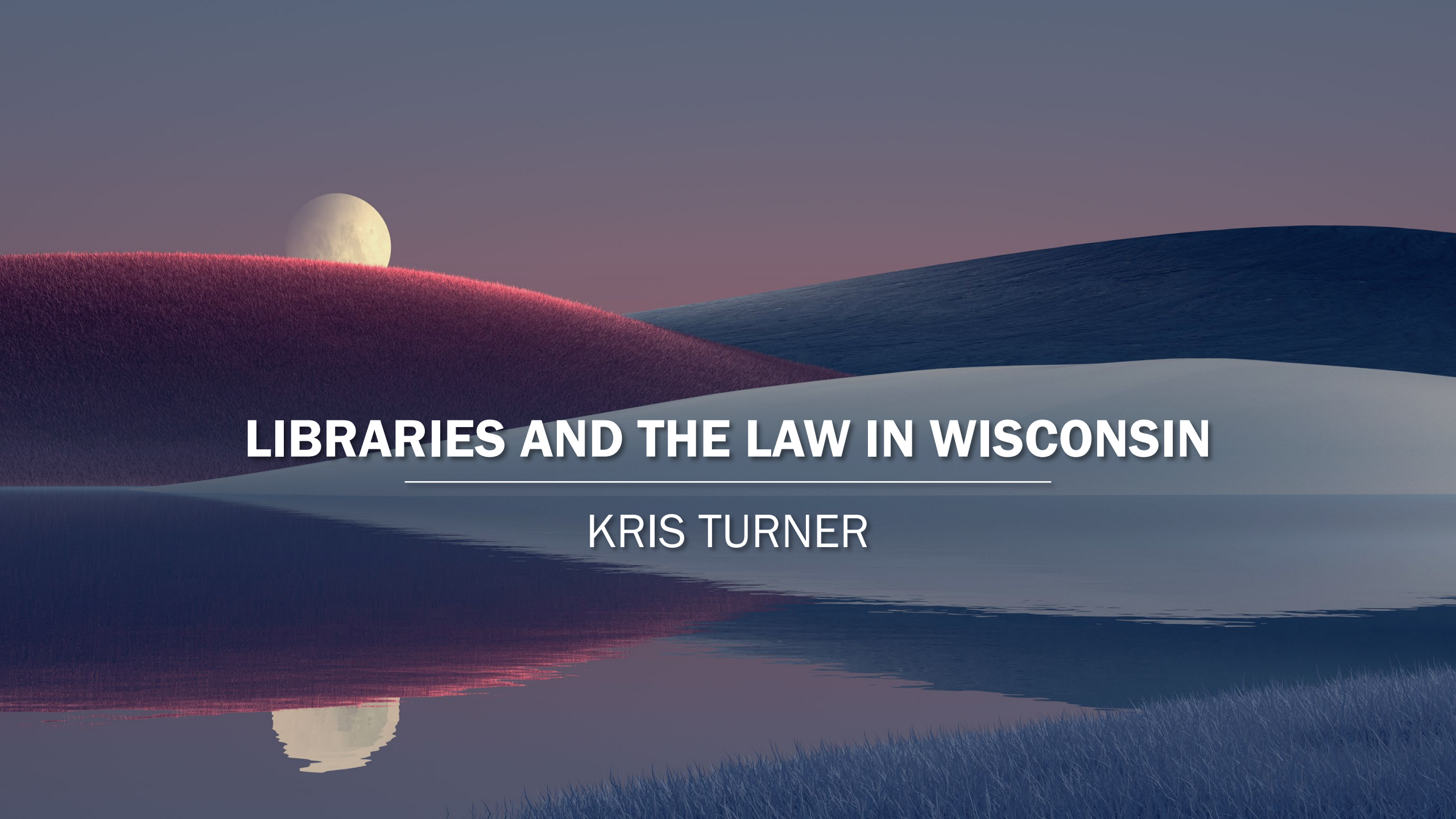


A surreal landscape featuring rolling hills. The foreground hill is covered in vibrant red grass, while the background hills are a deep blue. A large, bright yellow full moon sits on the horizon behind the red hill. In the foreground, a calm body of water reflects the red grass and the moon. A thin white line is positioned below the main title.

# **LIBRARIES AND THE LAW IN WISCONSIN**

KRIS TURNER



# UNDERSTANDING THE LAW

## – WHAT GOVERNS US

- Federal Law (Law of the Land)
- State Statutory Laws (WI Legislative Branch)
  - Statutes (from Acts, which are from Bills)
  - Attorney General opinions – clarifications and advisement
- Local Law (Ordinances)
  - Counties, towns, villages, cities all can create their own ordinances
- Case Law (Judicial Branch)
  - Interpreting and challenging the law
- Administrative Law (Executive Branch)
  - Enforcing and adjudicating the laws



# LOCATING THE LAW

Wisconsin law is readily available!

Statutes are available on the WI Legislature page

Local ordinances are also largely available online:  
<https://wilawlibrary.gov/topics/ordinances.php>

Case law for many US jurisdictions are freely available on Google Scholar: <https://scholar.google.com/>

Administrative Codes are also on the WI Legislature page: [https://docs.legis.wisconsin.gov/code/admin\\_code](https://docs.legis.wisconsin.gov/code/admin_code)

Federal law is even more available – note some changes though!  
(Ex: <https://www.govinfo.gov/app/collection/uscode/2021/> )



# READING THE LAW: UNDERSTANDING THE STATUTE IN FIVE EASY(?) STEPS

- 1. Read the statute – watch for 'primary' language and note how it may affect your library.
- 2. Understand the terms being used.
  - Check for Definitions at the start of a section – there may be particular meanings for particular chapters.
  - If not sure, start with the plain meaning of the term, and then dictionary terms.
- 3. Check to see if your statute has already been analyzed or interpreted by a court or an administrative agency.
- 4. Watch for references to other statutes or 'buddy' statutes (and read it in context!)
  - WI will link to related statutes that are relevant.
- 5. Finally, see if you can determine the legislative purpose if needed.
  - Watch for 'purpose' clauses or check for a legislative history (which details how the statute became law).

| Terms                                                                  | Function                                                                                                                                                                                                              |
|------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>And v. Or</b>                                                       | “And” typically signifies a conjunctive list, meaning each condition in the list must be satisfied, while “or” typically signifies a disjunctive list, meaning satisfying any one condition in the list is sufficient |
| <b>May v. Shall</b>                                                    | Generally, “shall” signifies that certain behavior is mandated by the statute, while “may” grants the agent some discretion                                                                                           |
| <b>Unless<br/>Except</b>                                               | These terms usually signify an exception to the statute                                                                                                                                                               |
| <b>Subject to...<br/>Within the meaning of<br/>For the purposes of</b> | These terms may limit the scope of the statute, or may indicate that a certain part of the statute is controlled or limited by another section or statute                                                             |
| <b>If...then...<br/>Upon<br/>Before/After<br/>Provided that...</b>     | Generally, these terms indicate that for one part of a statute to take effect, a precondition or requirement must be satisfied                                                                                        |
| <b>Notwithstanding</b>                                                 | Literally, “in spite of,” this term usually signifies that a certain term or provision is not controlled or limited by other parts of the statute, or by other statutes                                               |
| <b>Each/Only<br/>Every/Any/All</b>                                     | These terms commonly limit the class of objects that are either included in or excluded from the statute                                                                                                              |



**LIBRARY-SPECIFIC  
LAW TO KNOW  
ABOUT: CHAPTER 43**

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BIBLIOTHECA

# POWERS OF THE BOARD

- Chapter 43 is where many library-related laws are found.
- Primary statute sections to start with:
  - Municipal Libraries
  - Municipal Library Board Composition
  - Powers and Duties
- Some highlights:
  - Exclusive control of all library expenditures. 43.58(2)(a)
    - Exclusive control of all lands, buildings, money, and property acquired or leased by the municipality for library purposes. 43.58(1)
  - Supervising the administration of the library and appointing a librarian. 43.58(4)
  - Prescribing the duties and compensation of all library employees. 43.58(4)



## Procedures for Holding a Closed Session

The following steps are all required for a library board (or any other government body) to conduct a closed session legally:

1. The meeting notice must indicate any contemplated closed session, the subject matter of the closed session discussion, and the specific statutory provision allowing a closed session. If a closed session was not planned, a board may still go into closed session on any subject contained in the meeting notice, whether the notice provides for a closed session or not, if the board follows the procedures below.
2. The board must first convene in open session.
3. The chief presiding officer must announce to all present at the meeting the intention of going into closed session and the purpose of the closed session.
4. The chief presiding officer must state the specific section of the law, by statute number (e.g., Section 19.85(1)(c) for a director evaluation session), which allows for the closed meeting. This announcement should be recorded in the minutes. It is good practice for library staff to prepare in advance the exact wording of the announcement to be used.
5. Going into closed session requires a motion, second, and roll call vote to reconvene in closed session. The vote of each board member on this motion must be recorded in the minutes and preserved. A majority vote is required to reconvene in closed session.
6. Attendance at the closed session is limited to the board, necessary staff, and any other persons whose presence is needed for the business at hand.
7. Closed session discussions must be limited to the subject announced in the meeting notice and the chief presiding officer's announcement.
8. Certain votes may possibly be legally taken in closed session. But it is a better practice and safer legally to take votes after reconvening into open session. At any rate, all board actions, whether taken in open or closed session, must be recorded in the minutes and be open to public inspection. Secret ballots are allowed only for the election of board officers.

## OPEN MEETING LAWS

- Open Meetings Laws apply to other governmental bodies beyond libraries, so the controlling statute is found in the Public Officials chapter, [specifically 19.81-19.98.](#)
- Some highlights and notes:
  - The meeting requires 24-hour notice (unless it's an emergency) and the meeting to be held in a reasonably accessible place. 19.81(2) and 19.84(3)
  - You can hold closed sessions, but only when certain conditions are met. 19.85
    - Purposes for closed sessions are listed in 19.85(1)
  - Careful with emails about Board business – you may be creating an impromptu meeting that violates the open meeting law
    - [Attorney General opinion from 2010](#)
  - Penalties for violating can run from \$25-300 without reimbursement 19.96
  - Find out more about Board Documents on Wednesday!

# MEETING ROOM USE AND POLICIES

- Publicly funded libraries are not obligated to provide meeting room space to the public. If libraries choose to do so, such spaces are considered designated public forums, and legal precedent holds that libraries may not exclude any group based on the subject matter to be discussed or the ideas for which the group advocates. However, if a group's actions during a meeting disrupt or harass others in the library, library policies regarding acceptable behavior may apply. If libraries adopt policies that are perceived to restrict potentially controversial groups' access to meeting rooms, they may face legal and financial consequences. Allowing religious groups to use library meeting rooms and spaces does not constitute a breach of the First Amendment's Establishment Clause.
- Libraries offering meeting rooms and spaces should develop and publish policies governing use after consultation with legal counsel. These policies should properly define time, place, or manner of use; such restrictions should not pertain to the content of a meeting or to the beliefs or affiliations of the sponsors. Policies should be regularly reviewed with staff and made available to the public in all of the commonly used languages within the community served.
- Source: <https://www.ala.org/advocacy/intfreedom/librarybill/interpretations/meetingrooms>
- **Wisconsin Case: Pfeifer v. City of West Allis, 91 F. Supp. 2d 1253 (E.D. Wis. 2000)**

# Advocacy and budgets

Libraries receive support in numerous ways, either directly or through library systems. This support can focus on services, collections, staff, or space (among other things).

Libraries can advocate on behalf of their users.

Providing information and ramifications of changing budgets falls under this advocacy.

Wisconsin Library Association (WLA) has a lobbyist and meets with State Reps to advocate for state-level funding. Each February, WLA organizes Library Legislative Day to reinforce the popularity and importance of libraries.

From the Library Trustees handbook: “Your primary function as a library advocate will be to provide clear, accurate, and timely information on library issues to people who need it in order to make sound decisions on those issues.”



# BOOK CHALLENGE LOGISTICS

A top-down view of an open blue suitcase lying flat on a light-colored wooden floor. The suitcase is filled with approximately 15 books of various colors (white, grey, red, green, black) standing upright. The suitcase has silver-colored latches and a black handle.

Collection  
Development question

Many libraries have similar procedures for when a book is challenged.

[43.30\(4\)](#) details sharing records of minors with custodial parents

Local – no statute governing this beyond general freedom of information guidance. (Though other states have [‘banned’ book bans](#))

Find book challenge legislation [on the ALA’s page](#)



# THE LIFE CYCLE of a Library Book

## Library Staff

**Board-Approved Collection Development Policy**

### Staff Selects

Professional Journals (e.g. Publishers Weekly, Library Journal, BookList), Magazines, Newspapers, Staff Expertise

### Purchased

Baker & Taylor, Ingram, Local Bookstores, Amazon, Direct from Publisher

### Processed

Stamped, Labeled, and Covered

### Cataloged

Added to online catalog

### Shelved

Children's, Young Adult, or Adult

### Copies Added

Community demand triggers the purchase of more copies

### Systems' ILS Deliveries

### Checked In

### Reshelved

### Weeded

Deselected or damaged material given to Friends for booksale or recycling

### Staff Selects New Books

## Library Patron

Community Member/Taxpayer

90% of library budgets come from municipal governments (city, village, town, county, tribal, etc.)

### Patron Request

Word of mouth, media mentions, newspapers, magazines, BookTok, etc.

### Read in Library

### Hold Placed

### Interlibrary Loan (ILL) Requested

### Checked Out

### Returned

### Material Challenged (See other side)



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# When there is a BOOK CHALLENGE

## Challenges to Library Materials

Libraries have policies and procedures in place to respectfully address a community member's concerns. It begins long before an item is placed in the collection.

### How are **MATERIALS ADDED** to a library's collection?

- A locally appointed Library Board of Trustees develops a Collection Development Policy to guide its library's selection of materials.
- Local library staff use their training and expertise, professional book reviews, and patron requests to purchase materials that fit the Library Board's Collection Development Policy and reflect the needs and interests of the local community.
- Librarians locate materials in the library based on their professional expertise, knowledge of the community, and the Collection Development Policy.

### What process does a library use to deal with a **MATERIALS CHALLENGE** ?

The library's board-approved Collection Development Policy details a process for responding to materials challenges:

- When a patron notifies the library of an item they believe should be removed or relocated, staff provide the patron with a materials-reconsideration form that allows the patron to express their concerns.
- Staff review the submission; read, listen, or watch the item in its entirety; and determine whether the item complies with the Collection Development Policy.
- The Library Director notifies the patron in writing of its decision. The patron has the opportunity to appeal the decision to the Library Board.
- If the patron appeals the decision, the Library Board conducts its own review in relation to the Collection Development Policy. The Library Board notifies the patron of its decision in writing.



**Always feel free to talk to your local library director with questions or concerns.**



wisconsinlibraries.org  
wla@wisconsinlibraries.org

# GENAI, LIBRARIES, AND THE LAW

Regulation – not much (though [there are EOs](#) requiring AI use, [including education](#))

There are non-binding guidelines and [numerous examples](#) of unethical and lazy use of GenAI.

[Legislative Council Study on GenAI](#)  
(Feb. 25)

Libraries have a clear role:  
education, especially information  
literacy and technology training.  
Find out more tomorrow!



# SOME LIBRARY “LAW” SITUATIONS

- Recording in the Library?
  - Good example of how to deal with this on [the Cedarburg Public Library website](#). Limited public forum – it can happen, but only so long as it isn’t disruptive to library services and patrons. Not allowed in staff areas.
- Avenues for raising revenues
  - Grants (nonprofits, governments, corporations)
  - Via foundations or friend organizations that help put on events and sales
  - Charging for space (very specific ways) or certain services
  - Advocacy and determination of whether this is an ongoing need or one-time project
- Local governments and library boards
  - Finances – 43.58(2): Library Board shall audit and approve all expenditures.
  - Library Boards tend to have more autonomy, but do not hold the purse strings. Therein lies the struggle.
  - Library Boards control number of employees and salaries. League of Municipalities has determined that library employees are held to the same standards as municipal employees.
  - Find out more on Thursday!
- Library Directors on other community boards during paid hours
  - Likely depends on the role and the reason. Is the Director there as a Director? Part of their duties?
  - Is this release time or an agreed-upon situation? Probably best addressed in Board policy.
- Reciprocal Cards and Milwaukee in particular
  - System policy – likely depends on demand and collection stress.
- Remember, statutes are general guideposts – you can point to them for help, but details are either hashed out elsewhere or via local workflows.



# RESOURCES TO REVIEW

- [A guide to reading and applying statutes](#)
- [WLA's handout on the life cycle of a book and mechanics of a book challenge](#)
- Wisconsin Statutes:
  - [Chapter 43](#)
  - [Chapter 19](#)
  - [DPI Public Library Admin Code](#)
- Department of Public Instruction:
  - [Trustee Essentials](#) (last updated 2026)
  - [Legal Resources about libraries](#)
- WI League of Municipalities:
  - [FAQs on relationship between library boards and municipalities](#)
  - [Open Meeting Law FAQs](#)
  - [An overview of municipal library boards](#)
- WI Department of Justice:
  - [Open Meeting and Public Records Law overview](#)
  - [DOJ Open Meetings Law compliance law \(March 2025\)](#)
  - [Attorney General Opinions \(back to 1912\)](#)



