



**OWWL
LIBRARY
SYSTEM**

**MEMBER LIBRARY
COMPLIANCE TOOLKIT**

INTRODUCTION

Each public library in New York State is chartered by the Board of Regents of the University of the State of New York. As chartered and independent legal entities, libraries are subject to a plethora of requirements from various sections of law, regulations, and standards.

While compliance may be tedious at times due to the overwhelming number of projects we are trying to accomplish, it is critical that Directors and Trustees pay close attention to maintaining their obligations to the law. Being out of compliance could impact specific funding or your library's charter.

The OWWL Library System is not a regulatory agency when it comes to these areas of compliance. Instead, we work to notify, educate, and support libraries when issues arise.

Contained in this document is a non-exhaustive list of areas that your library must be in compliance with (unless otherwise noted). Please take a moment to review each section to ensure all areas are met.

If your library is unable to meet compliance with any area outlined in this toolkit or an area is not addressed, please contact Ron Kirsop.

The most recent version of this Toolkit has been updated on October 3, 2022.

Sincerely,

Ron Kirsop
Executive Director
OWWL Library System

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LIBRARY WEBSITE

WEBSITE

Library websites are required to provide up-to-date information on library services as well as maintain a level of transparency in relation to governance. Both Commissioners Regulation¹ and the Committee on Open Government² requires your library to have certain items accessible on your website.

Website Requirements:

- Bylaws:** Must have an amendment or review date within the past five years.
- Long-range plan:** This should be the most recent and current plan.
- Annual Report to the Community:** Most recent report to the community (typically the previous fiscal year).
- Policies:** These must be stand-alone policies with an approved, amendment, or review date within the past five years.
- Budget:** This must be for the current fiscal year.
- Current Library Information:** Hours, contact information, and other general information about the library should be included.
- Minutes:** Open Meetings must have Minutes posted within two weeks of the date of the meeting or one week in the case of an Executive Session.
- Board Meeting Dates:** Public notice of all Open Meetings is required to be sent to a local news source and posted on the library's website.
- Documents under Discussion at Board Meeting:** Copies of records must be made available to the public at least 24 hours before a public meeting, to the extent practicable³. These may be removed following the board meeting.
- Recordings of Board Meeting:** If the board authorizes the use of videoconferencing (through policy, public hearing, and resolution) for board meetings, a recording must be uploaded and maintained for five years on the library's website⁴.

GOVERNANCE INFORMATION

BYLAWS

Each Library Board is governed by a written set of bylaws that define the structure and governing functions of the library. These bylaws must be board approved and updated every five years according to Minimum Standards⁵.

According to Minimum Standards, all public libraries in New York State are required to make their Bylaws easily accessible to the public, including posting them on the library’s website⁶.

Items to Include in Bylaws

- Specific Number of Trustees:** Even if your charter has a range of trustees (typically 5-25), a library must set a specific number of current Board Members in its bylaws.
- Quorum:** The specific number is important because it is used to calculate quorum (the minimum number of trustees required to pass a motion, one more than half). Education Law states that a “majority of the whole number [of trustees, regardless of vacancies] shall be a quorum⁷.”
- Specific Trustee Terms:** Language is required that addresses the duration of a Trustee term; the starting and ending dates for the term; how many consecutive terms a board member can serve; and how trustees are elected or appointed to the board. Should a library wish to alter its Trustee Terms (from five years to three years), it will need to file a charter amendment with the Board of Regents.
- Vacancies:** A process is required for filling vacancies for unexpired terms.
- Addressing Absences:** Bylaws should define how the board handles absences of Trustees and what is considered an accepted absence. Education Law 226 states, "If any trustee shall fail to attend three consecutive meetings without excuse accepted as satisfactory by the trustees, he shall be deemed to have resigned."
- Removal of a Trustee:** Include a process and reasons for removing a Trustee from the Board.

Sample Bylaws can be found in Appendix A at the end of this document.

OATH OF OFFICE

The Public Officer's Law requires public officials to take and file an oath of office. This requirement is set forth in Public Officer's Law §10, which provides, in part that "[e]very officer shall take and file the oath of office required by law..." The oath to which public officers must affirm is set forth in Section I of Article XIII of the New York State Constitution and provides:

"I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of, according to the best of my ability;⁸"

Oath of Office Checklist

- Required for all Public Library Trustees, Treasurers, and District Clerks.
- Must be filed within 30 days of the start of a Trustee's term (failure to do so will result in a vacant position).
- Must be filed with the local county clerk's office (or with Town clerk for Town libraries).
- It is recommended to have the Library Director take the Oath of Office to model a commitment to accountability and transparency.

POLICIES

“Policies are the rules and the principles that guide the operation and the use of the library. They are required by Education Department Regulations (8 NYCRR) § 90.2 as part of the public library minimum standards⁹ and must be reviewed every five years and posted on the library's website. The library board is responsible for creating such policies, reviewing and revising them, and ultimately enforcing them with the assistance of the library staff. Policies must be clearly written and understandable.”¹⁰

Policies to Include

- Conflict of Interest Policy:** Required for all Public and Association Libraries to comply with Not-for-Profit Corporation Law, §715-a¹¹.
- Internet Use Policy:** “The board of trustees of a public, free association or Indian library which provides public access to the internet shall establish a policy governing patron use of computer terminals which access the internet. Verification of such policy shall be included in the annual report submitted to the department.”¹²”
- Sexual Harassment Prevention Policy:** Every employer is required to adopt a sexual harassment prevention policy¹³ and provide sexual harassment prevention training every year according to Labor Law, Section 201-G¹⁴.
- Whistleblower Policy:** All public and association libraries with twenty or more employees AND an annual revenue in excess of one million dollars in the previous fiscal year¹⁵.
- Employee Handbook:** Each library should be required to have internal policies that govern the rules, benefits, and agreements between employer and employee in the library. The OWWL Library System contracted with HR Works to provide a sample handbook¹⁶.
- Review Each Policy Every Five Years:** Policies need to be stand-alone, dated, and reviewed at least every five years according to Minimum Standards.

A full list of recommended policies can be found in Appendix B at the end of this document.

CONTINUING EDUCATION REQUIREMENTS

CONTINUING EDUCATION

Not only is continuing education beneficial to the library, there are also regular requirements for both library staff and trustees. At least 1% of a library's operating budget should be dedicated to continuing education each year¹⁷.

Required Training

- Sexual Harassment Training:** As mentioned above, every employer in New York State is required to provide employees with annual sexual harassment prevention training¹⁸. The requirement includes the Board of Trustees.
- Technology Training for Staff:** Required by Minimum Standards, staff must receive annual technology training, appropriate to their position to address community needs as outlined in the library's long-range plan of service¹⁹.
- Trustee Education:** Each member, elected or appointed, of a board of trustees, is required to complete a minimum of two hours of trustee education annually²⁰.

FINANCIAL REQUIREMENTS

ANNUAL FINANCIAL PAPERWORK

Form 990

All association libraries registered as a 501(c)(3) with the IRS should submit Form 990 to the Internal Revenue Service annually. Form 990 is the IRS' primary tool for gathering information about tax-exempt organizations, educating organizations about tax law requirements and promoting compliance. Organizations also use the Form 990 to share information with the public about their programs. Additionally, most states rely on the Form 990 to perform charitable and other regulatory oversight and to satisfy state income tax filing requirements for organizations claiming exemption from state income tax²¹.

Annual Update Document (AUD)

All Public Libraries are required to submit an Annual Update Document to the Office of the State Comptroller. This AUD is a financial report that is typically due 120 after the financial year has ended. Similar to Tax Cap Reporting, the library will need to log into its online account in order to submit the required information²².

TAX CAP REPORTING

Libraries receiving public funds through a tax referendum must annually file a tax cap reporting form through the NYS Comptroller's Office. The Property Tax Cap Form declares intentions for the coming fiscal year and upcoming tax levy. The deadline to file is March 1 each year if the library's vote is held in May.

Tax Cap To-Do List

- Establish a Username and Password with the OSC online portal.
 - Your Library should only need to establish this once, and then you'll be prompted to update your own password annually.
 - Online services: <https://onlineservices.osc.state.ny.us/Enrollment/login?0>
 - Email: localgov@osc.state.ny.us or Call Help Line: 518-408-4934
- Board Passes a Tax Cap Override Resolution prior to adopting next year's budget.
 - Fall of this year for Spring vote next year
- Login to OSC reporting portal to file the form.
- File as soon as possible, expect surprises like a different look and feel to the website, new questions, etc...
- Print and retain copies of completed forms and confirmation of submission.
- Review school district requirements for submitting a budget proposition, if applicable.

- Petition community voters for support if increasing the amount of your total vote, if required by your school district.
- Submit a request for a budget proposition vote to the school district, if applicable.
- Retain a published public copy of your proposition vote.
- Print and retain a copy of your vote outcome from the local news.
- Be able to demonstrate the total “yes” votes in relation to the total number of voters, to verify the passage by 50% or more.
- Retain a copy of your check from the school district.
- Copy of the adopted Library budget that includes the tax levy.
- Copy of the previous year’s adopted budget clearly delineating the amount of that tax levy.

Exceeding the Tax Cap

“Allowable Tax Levy Growth Factor²³” (Tax Cap) depends on your community and the timing of your fiscal year. The online tax cap reporting form will help you calculate your allowable rate for tax cap compliance; be prepared for this to change annually. A Library Board can propose a budget that exceeds the tax cap.

Whether the library intends to exceed the tax cap or not, passing a resolution is recommended in case the tax cap calculations are off at any point, causing you to inadvertently exceed the cap.

- Pass one of the resolutions in the next section by a 60% vote of the total board to override the tax cap.
 - The proposition still requires voter approval and must pass by a simple majority of voters (50%). The board resolution simply allows the library to exceed the tax cap.
- Adopt the budget.
 - If the library plans to exceed the tax cap, the board must pass the resolution prior to adopting the budget.

Tax Cap Override Resolution

Option One: Use this sample resolution if you plan to pass override at the beginning of your fiscal year or at your annual meeting in advance of adopting a budget. This meets the requirements of the tax cap law while giving flexibility to the library board to adopt a budget later in the year that requires a tax levy that exceeds the tax cap or if the board approves a budget with incomplete or incorrect information to calculate the tax levy. If a library or any local government approves a tax levy that exceeds the cap (without passing the below resolutions), then these excess funds must be put in an interest-bearing account and used the following fiscal year to reduce the tax levy.

Whereas, the adoption of the (Year) budget for the (Library Name) may require a tax levy increase that exceeds the tax cap imposed by state law as outlined in General Municipal Law Section 3-c adopted in 2011; and

Whereas, General Municipal Law Section 3-c expressly permits the library board to override the tax levy limit by a resolution approved by a vote of sixty percent of qualified board members; now therefore be it

Resolved, that the Board of Trustees of the (Library Name) voted and approved to exceed the tax levy limit for (Year) by at least the sixty percent of the board of trustees as required by state law on (meeting date).

Option Two: Use this sample resolution if you plan to pass the override at the same time you approve your budget, when you believe you have all the necessary data to correctly calculate your tax levy.

Whereas, the adoption of this (Year) budget for the (Library Name) requires a tax levy increase that exceeds the tax cap imposed by state law as outlined in General Municipal Law Section 3-c adopted in 2011; and

Whereas, General Municipal Law Section 3-c expressly permits the library board to override the tax levy limit by a resolution approved by a vote of sixty percent of qualified board members; now therefore be it

Resolved, that the Board of Trustees of the (Library Name) voted and approved to exceed the tax levy limit for (Year) by at least sixty percent of the board of trustees as required by state law on (meeting date).

APPENDICES

APPENDIX A: SAMPLE BYLAWS

PREAMBLE²⁴

The Board of Trustees (hereinafter designated as the “Board”) of the [INSERT LIBRARY NAME] created under a charter granted under Section 253 of the New York State Education Law by the Board of Regents (or Secretary of State) of the State of New York, dated [INSERT DATE], shall be governed by the laws of New York State, the regulations of the Commissioner of Education and by the following bylaws.

BYLAWS

1. NAME OF ORGANIZATION
 - a. The name of the organization shall be the [INSERT LIBRARY NAME].
2. PURPOSE
 - a. [INSERT LIBRARY MISSION]
3. FISCAL
 - a. The Fiscal Year of the library shall be [CALENDAR YEAR OR JULY TO JUNE?]
4. BOARD OF TRUSTEES
 - a. The library shall be governed by a Board of Trustees. The Board shall consist of not less than [NUMBER] nor more than [NUMBER] members with the current number being [INSERT NUMBER], [INSERT ANY PARTICULAR LANGUAGE REGARDING AREAS OF REPRESENTATION OR METHOD OF ELECTION. THE NUMBER OF TRUSTEES MUST CONFORM WITH THE LIBRARY’S CHARTER]
 - b. Newly appointed members will take office at the first meeting following the annual meeting.
 - c. Eligibility for Trustee shall be limited to adults residing or owning property within the [CHARTERED SERVICE AREA].
 - d. Absence from three consecutive meetings shall constitute automatic dismissal from the Board unless the Board defers this dismissal by majority vote. The President shall inform the absent Board Member in writing that they are no longer on the Board. If dismissal is deferred by Board action the President shall inform the absent Board Member in writing the conditions of this deferral.
 - e. Any vacancy shall be filled by special appointment by the remaining members of the Board for the remainder of the term of that particular position.
 - f. The Board may remove a Trustee for misconduct, incapacity, neglect of duty or refusal to carry into effect the library’s educational purpose as provided in Education Law 226; subdivision 8.
 - g. Each Trustee shall have one vote, irrespective of office held.
 - h. A Trustee must be present at a meeting to have his/her vote counted.

- i. A majority of the whole Board (including vacancies) is required for any motion to pass.
 - j. All actions of the Board shall be of the Board as a unit. No Board member shall act on behalf of the Board, on any matter, without prior approval of the Board. No Board member by virtue of his/her office shall exercise any administrative responsibility with respect to the library nor, as an individual, command the services of any library employee.
5. OFFICERS
- a. The officers of the Board shall be the President, Vice-President, Secretary, and Treasurer, elected annually by the Board at the annual meeting. These officers shall serve for a period of one year or until their successors shall have been duly elected.
 - b. The duties of such officers shall be as follows:
 - i. The **President** shall preside at all meetings of the Board, authorize calls for any special meetings, appoint all committees, execute all documents authorized by the Board, serve as an ex-officio voting member of all committees, and generally perform all duties associated with that office.
 - ii. The **Vice President**, in the event of the absence or disability of the President, or of a vacancy in that office, shall assume and perform the duties and functions of the President.
 - iii. The **Secretary** shall keep a true and accurate record of all meetings of the Board, shall issue notice of all regular and special meetings, and shall perform such other duties as are generally associated with that office.
 - iv. The **Treasurer** (Many public libraries must appoint an independent Treasurer who is not a member of the Board. See chapter on Board Organization.) shall be the disbursing officer of the Board and shall perform such duties as generally devolve upon the office. In the absence or inability of the Treasurer, his/her duties shall be performed by such other members of the Board as the Board may designate.
6. DIRECTOR
- a. The Board shall appoint a Director who shall be the chief executive officer of the library corporation and shall have charge of the administration of the library under the direction and review of the Board. The Director shall be responsible for the care of the buildings and equipment; for the employment and direction of the staff; for the efficiency of the library's service to the public; and for the operation of the library under the financial conditions contained in the annual budget.
 - b. The Director shall render and submit to the Board reports and recommendations of such policies and procedures, which, in the opinion of the Director, will improve efficiency and quality of library service. The Director shall attend all Board meetings except the portion of the meeting at which the director's appointment or salary is to be discussed or decided.
7. COMMITTEES

- a. A nominating committee shall be appointed by the President three months prior to the Annual Meeting who will present a slate of officers and names of candidates for new trustees. Additional nominations may be made from the floor.
- b. Committees for specific purposes may be appointed by the President. Such committees shall serve until the completion of the work for which they were appointed.
- c. All committees shall make a progress report to the Board at each of its meetings.
- d. No committee will have other than advisory powers unless, by suitable action of the Board, it is granted specific power to act.
- e. The President shall be, ex officio, a member of all committees

8. MEETINGS

- a. Meetings shall be held each month, the date and hour to be set by the Board. Written notice of all meetings shall be mailed by the Secretary to each member at least five days before the meeting.
- b. A special meeting of the Board may be called at any time by the President or upon the request of three members for a specific purpose. No business may be transacted at such special meeting except the stated business.
- c. The Annual Meeting shall be held in [INSERT MONTH] of each year. The business transacted at this meeting shall include the election of new trustees and new officers.
- d. The final budget for the subsequent calendar year shall be presented for approval at the regular meeting in [MONTH].
- e. The final budget for the subsequent calendar year shall be presented for approval at the regular meeting in [MONTH].
- f. A simple majority of the whole Board (including vacancies) shall constitute a quorum for the conducting of all business. A majority of the whole Board (including vacancies) is required for any motion to pass. If a quorum is not present at a regular meeting, the attending members may set a date for another meeting to be held within one week, and the presiding officer shall notify the absent members of this specially called meeting.

9. AMENDMENTS

- a. Amendments to these Bylaws may be proposed at any regular meeting and shall be voted upon at the next regular meeting. Written notice of the proposed amendment or amendments shall be sent to all absent members at least ten days prior to the voting session. A simple majority of the whole Board (including vacancies) shall be sufficient for adoption of an amendment.
- b. Any rule or resolution of the Board, whether contained in these Bylaws or otherwise, may be suspended temporarily in connection with business at hand, but such suspension, to be valid, may be taken only at a meeting at which two-thirds of the members of the Board shall be present and two-thirds of those present shall so approve. *Approved by the [Insert Library Name] Board of Trustees Dated: [INSERT DATE].*

APPENDIX B: RECOMMENDED POLICIES

External

Circulation

- Customer Service
- Patron Confidentiality
 - Law Enforcement Inquiry
- Lending Rules (including Non-Resident Borrowing)

Collection

- Collection Development (including weeding)
- Censorship:
 - Challenge of Library Materials
 - Freedom to Read (ALA)
 - Freedom to View (ALA)
- Copier/Copyright
- Local History

Public Space & Safety

- Accessibility/ADA Statement
- Exhibit/Posting
- Incident Report Form & Procedure
- Meeting Space/Equipment
- Patron Behavior/Code of Conduct
- Patron Complaints
- Programming
- Tutoring
- Smoking
- Unattended Children
- Vulnerable Adults

Technology

- Cybersecurity
- General Data Protection Regulation
- Library Equipment Usage
- Internet Use
- Wireless Use
- Website

Internal

Board

- Code of Ethics/Conduct
- Conflict of Interest
- Continuing Education
- Equity, Diversity & Inclusion
- Meeting Procedures (including public expression)
- Removal of a Trustee

Administrative

- Business Continuity Plan
- Inclement Weather/Closing
- Public Access to Records (Freedom of Information Law (FOIL))
- Public Relations (including social media)
- Records Retention
- Security System Access
- Sustainability

Financial Controls

- Audit/Review Schedule
- Claims Audit Process
- Credit Card
- Disposition of Surplus Property
- Friends Group Memo of Understanding
- Fund Balance & Reserve Funds
- Fundraising/Gift
- Investments
- Inventory/Fixed Assets
- Online Banking & Wire Transfers
- Petty Cash
- Purchasing/Procurement
- Travel & Conference

Personnel

- Attendance/Leave
- Code of Conduct
- Computer/Internet/Email/Social Media
- Continuing Education
- Discipline/Termination
- Equal Employment Opportunity
- Evaluation Procedure
- Grievance Procedure
- Harassment
- Sexual Harassment Prevention
- Jury Duty
- Nepotism
- Orientation
- Outside Employment
- Personnel Records Access
- Probationary Period
- Recruitment/Hiring
- Salary/Benefits
- Telecommuting
- Volunteers
- Workplace Monitoring and Surveillance*
- Whistleblower Protection

Safety

- Airborne Infectious Disease Exposure Prevention Plan
- Disaster Recovery Plan/Continuity of Operations Plan (COOP)
- Emergency Action Plan
- Active Shooter Procedures
- Opioid Prevention Measures
- Workplace Safety

Adapted from the 2022 updated checklist insert to the Handbook for Library Trustees of New York State.

ENDNOTES

- ¹ 90.2 Standards for registration of public, free association and Indian libraries, [https://govt.westlaw.com/nycrr/Document/I36517e98c22211ddb29d8bee567fca9f?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I36517e98c22211ddb29d8bee567fca9f?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))
- ² Public Officers Law, Article 7, Open Meetings Law, <https://opengovernment.ny.gov/system/files/documents/2022/09/oml-text-09152022.pdf>
- ³ Disclosure of Records Scheduled for Discussion at Open Meetings, Committee on Open Government Memo, <https://opengovernment.ny.gov/system/files/documents/2021/11/disclosure-of-records-scheduled-for-discussion-at-open-meetings-112221.pdf>
- ⁴ New York State Committee On Open Government, Questions And Answers Chapter 56 Of The Laws Of 2022, <https://opengovernment.ny.gov/system/files/documents/2022/05/chapter-56-of-the-laws-of-2022-guidance-document-05-20-22.pdf>
- ⁵ Helpful Information for Meeting Minimum Public Library Standards, Written Bylaws, <https://www.nysl.nysed.gov/libdev/helpful/standard01.htm>
- ⁶ Helpful Information for Meeting Minimum Public Library Standards, Provides access to current library information, <https://www.nysl.nysed.gov/libdev/helpful/standard11.htm>
- ⁷ Education Law 226, Powers of trustees of institutions, <https://www.nysenate.gov/legislation/laws/EDN/226>
- ⁸ New York State Library, Trustee Oaths of Office, <https://www.nysl.nysed.gov/libdev/trustees/oath.htm>
- ⁹ Helpful Information for Meeting Minimum Public Library Standards, Written Policies, <https://www.nysl.nysed.gov/libdev/helpful/standard04.htm>
- ¹⁰ 2018 Handbook for Library Trustees of New York State, Library Policies, pg. 38, <https://www.nysl.nysed.gov/libdev/trustees/handbook/handbook.pdf>
- ¹¹ SECTION 715-A, Conflict of interest policy, <https://www.nysenate.gov/legislation/laws/NPC/715-A>
- ¹² SECTION 260 (12), Trustees, <https://www.nysenate.gov/legislation/laws/EDN/260>
- ¹³ NYS Model Sexual Harassment Policy, <https://www.ny.gov/combating-sexual-harassment-workplace/employers>
- ¹⁴ SECTION 201-G, Prevention of sexual harassment, <https://www.nysenate.gov/legislation/laws/LAB/201-G>
- ¹⁵ SECTION 715-B, Whistleblower policy, <https://www.nysenate.gov/legislation/laws/NPC/715-B>
- ¹⁶ Employee Handbook Template provided by OWWL Library System, <https://docs.owwl.org/Community/EmployeeHandbookTemplateProject>
- ¹⁷ 2018 Handbook for Library Trustees of New York State, Personnel, pg. 48, <https://www.nysl.nysed.gov/libdev/trustees/handbook/handbook.pdf>
- ¹⁸ New York State, Employers, Training Requirements, <https://www.ny.gov/combating-sexual-harassment-workplace/employers>
- ¹⁹ Helpful Information for Meeting Minimum Public Library Standards, Technology Training for Staff, <https://www.nysl.nysed.gov/libdev/helpful/standard13.htm>
- ²⁰ SECTION 260-D, Board of trustees continuing education, <https://www.nysenate.gov/legislation/laws/EDN/260-D>
- ²¹ IRS, Form 990 Resources and Tools, <https://www.irs.gov/charities-non-profits/form-990-resources-and-tools#:~:text=Form%20990%20is%20the%20IRS,the%20public%20about%20their%20programs>.
- ²² Office of New York State Comptroller, Filing an Annual Update Document (Annual Financial Report), <https://www.osc.state.ny.us/local-government/required-reporting/filing-annual-update-document-annual-financial-report>

²³ Office of the New York State Comptroller, Property Tax Cap, Inflation and Allowable Levy Growth Factors, <https://www.osc.state.ny.us/files/local-government/property-tax-cap/pdf/inflation-and-allowable-levy-growth-factors.pdf>

²⁴ Adapted from the 2018 Handbook for Library Trustees of New York State, Sample Bylaws, pg. 90, <https://www.nysl.nysed.gov/libdev/trustees/handbook/handbook.pdf>