

Basic Library Law for Trustees

A Webinar sponsored by the New York State
Division of Library Development and the
Library Trustees Association of New York State
November 8, 2013



Presented by: Jerry Nichols, Director, Palmer Institute for Public Library
Organization and Management; Palmer School of Library and Information Science
Long Island University; LIU Post.

Welcome

Bernard Margolis,

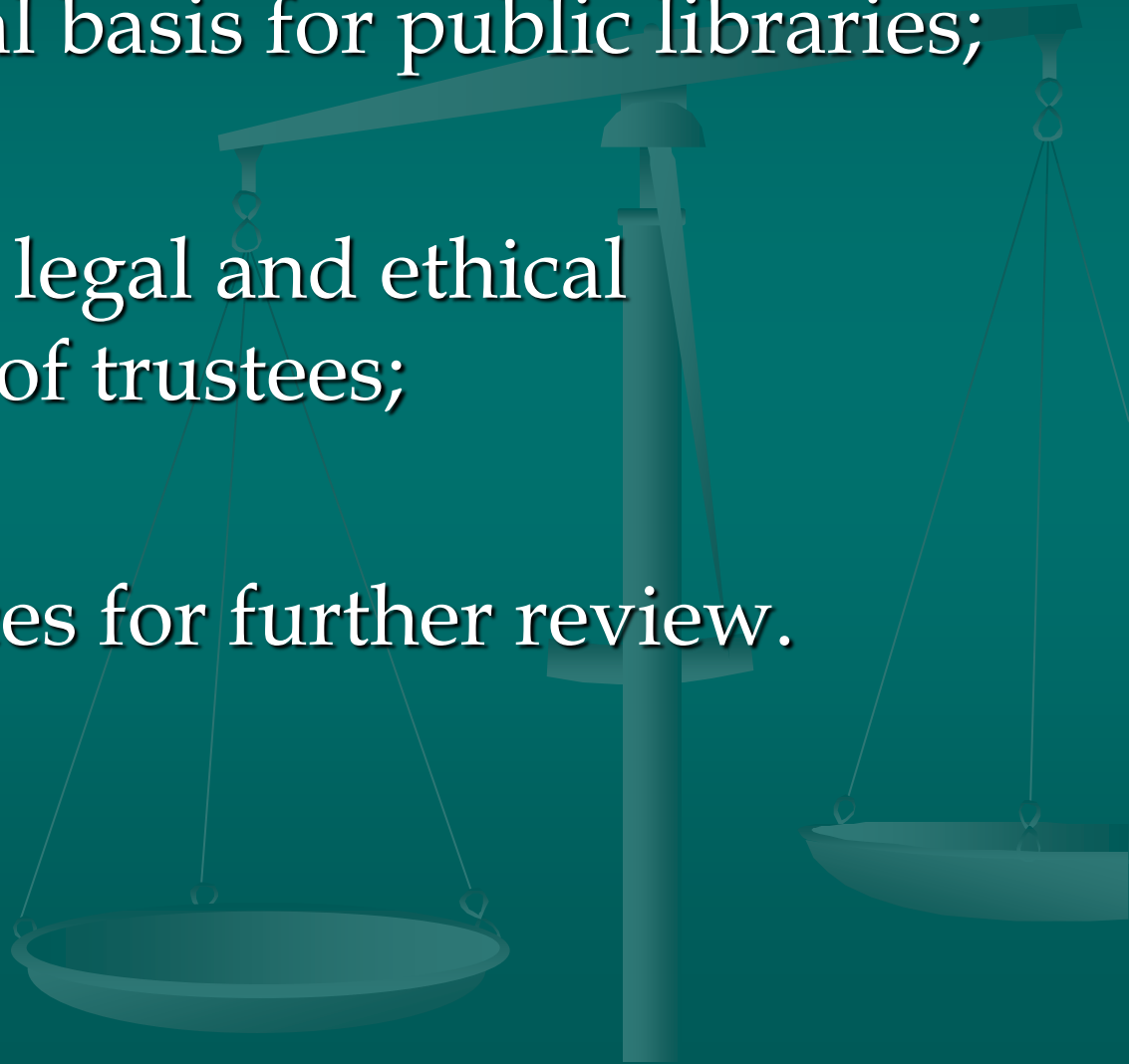
Assistant Commissioner for Libraries and New York State Librarian



Bernard A. Margolis has served as New York State Librarian and Assistant Commissioner for Libraries since January 2009. Mr. Margolis administers the New York State Research Library and the Division of Library Development. In partnership with the state's 73 public and school library systems, the State Library delivers library services to 19.5 million people served by New York's 7,000 academic, public, school and special libraries.

Workshop Objectives

- Explore the legal basis for public libraries;
- Understand the legal and ethical responsibilities of trustees;
- Provide resources for further review.

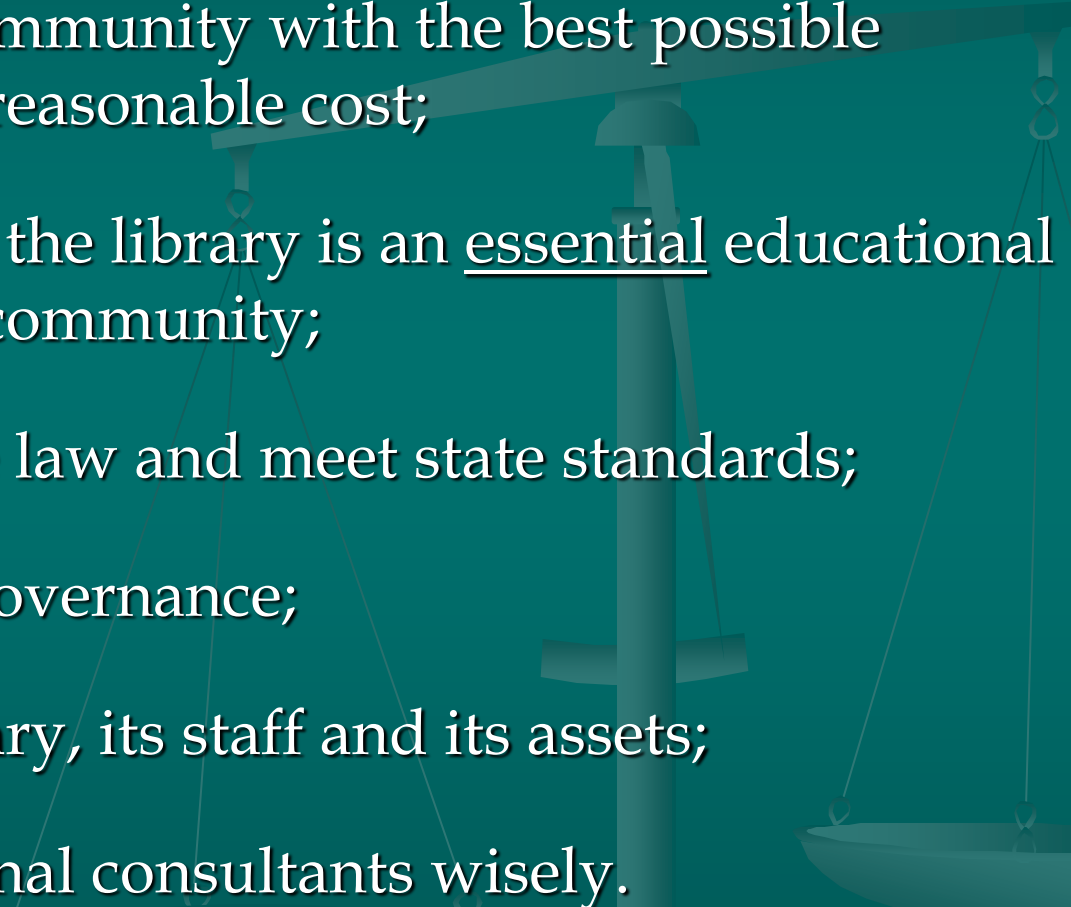


Topics

- Core Values
- Legal Structure of Public Libraries
- The Laws and Regulations that you should know



Your Responsibilities as a Library Trustee

- To provide your community with the best possible library service at a reasonable cost;
 - To understand that the library is an essential educational institution in your community;
 - To comply with the law and meet state standards;
 - To promote good governance;
 - To protect the Library, its staff and its assets;
 - To utilize professional consultants wisely.
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Typical Legal Issues

- Labor Issues:
 - Collective Bargaining
 - Grievances/Termination
- Public Bidding
- Construction/Automation Contracts
- Real Estate Transactions
- Capital Finance
- Negligence Suits (Slip & Fall)
- Article 78 Proceedings



Core Values

■ Intellectual Freedom

- *“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”* 1st Amendment to the Constitution of the United States of America
 - www.nyla.org/max/4DCGI/cms/review.html?Action=CMS_Document&DocID=860&MenuKey=career

■ Access

- www.ada.gov

■ Confidentiality of Library Records

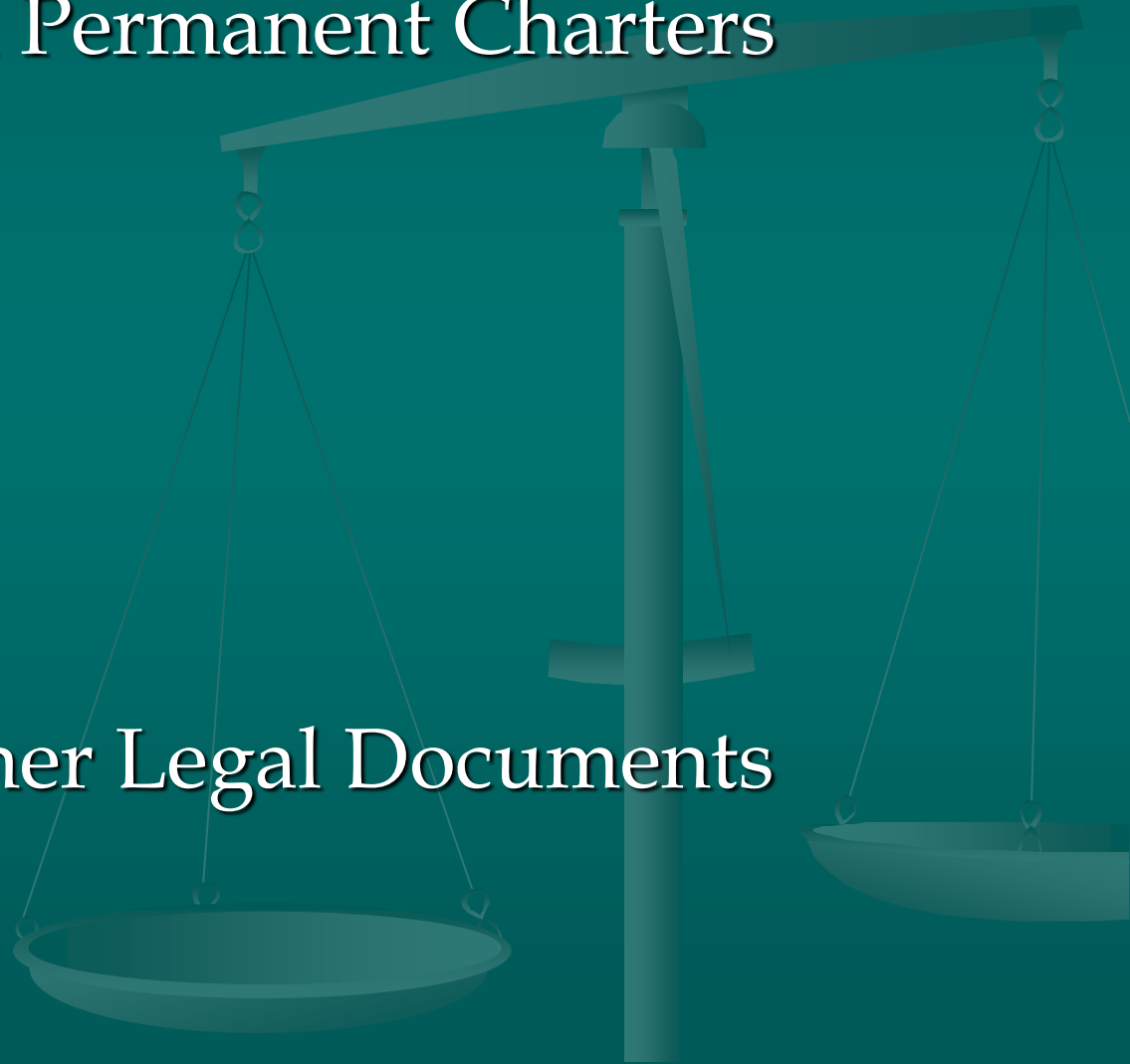
- N.Y. Civil Practice Laws and Rules Sec.4509; 2307
- www.ala.org/offices/oif/ifttoolkits/toolkitsprivacy/default

The Library as a Corporation

- Educational Corporations
 - www.counsel.nysed.gov/pamphlet9/home.html
- The Board of Regents
 - www.regents.nysed.gov
- State Education Department
 - www.nysed.gov
- Commissioner of Education
 - www.oms.nysed.gov/orgchart/
- State Librarian/ New York State Library
 - www.nysl.nysed.gov

Critical Documents

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

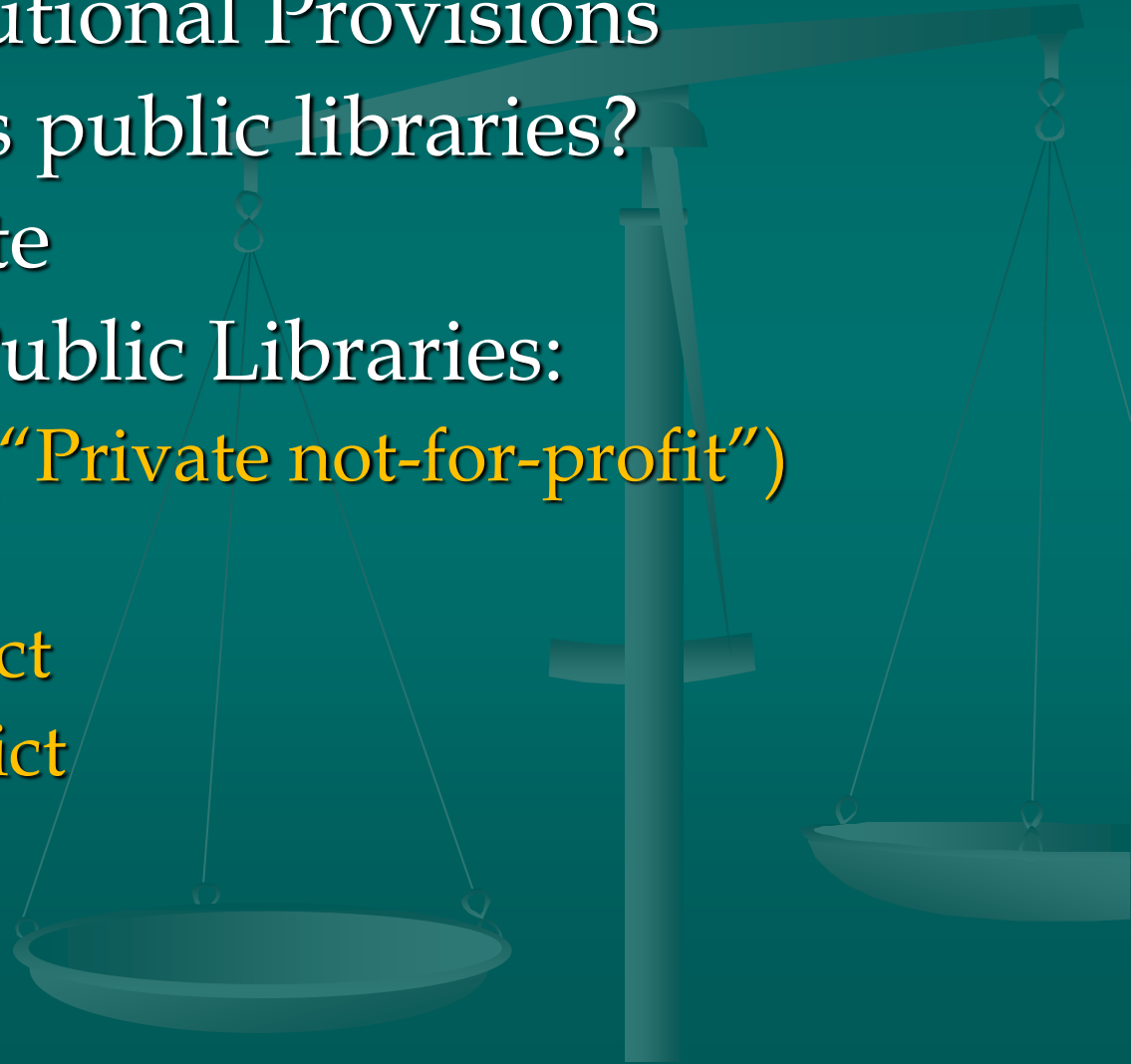


By-Laws and Charter

- *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.*

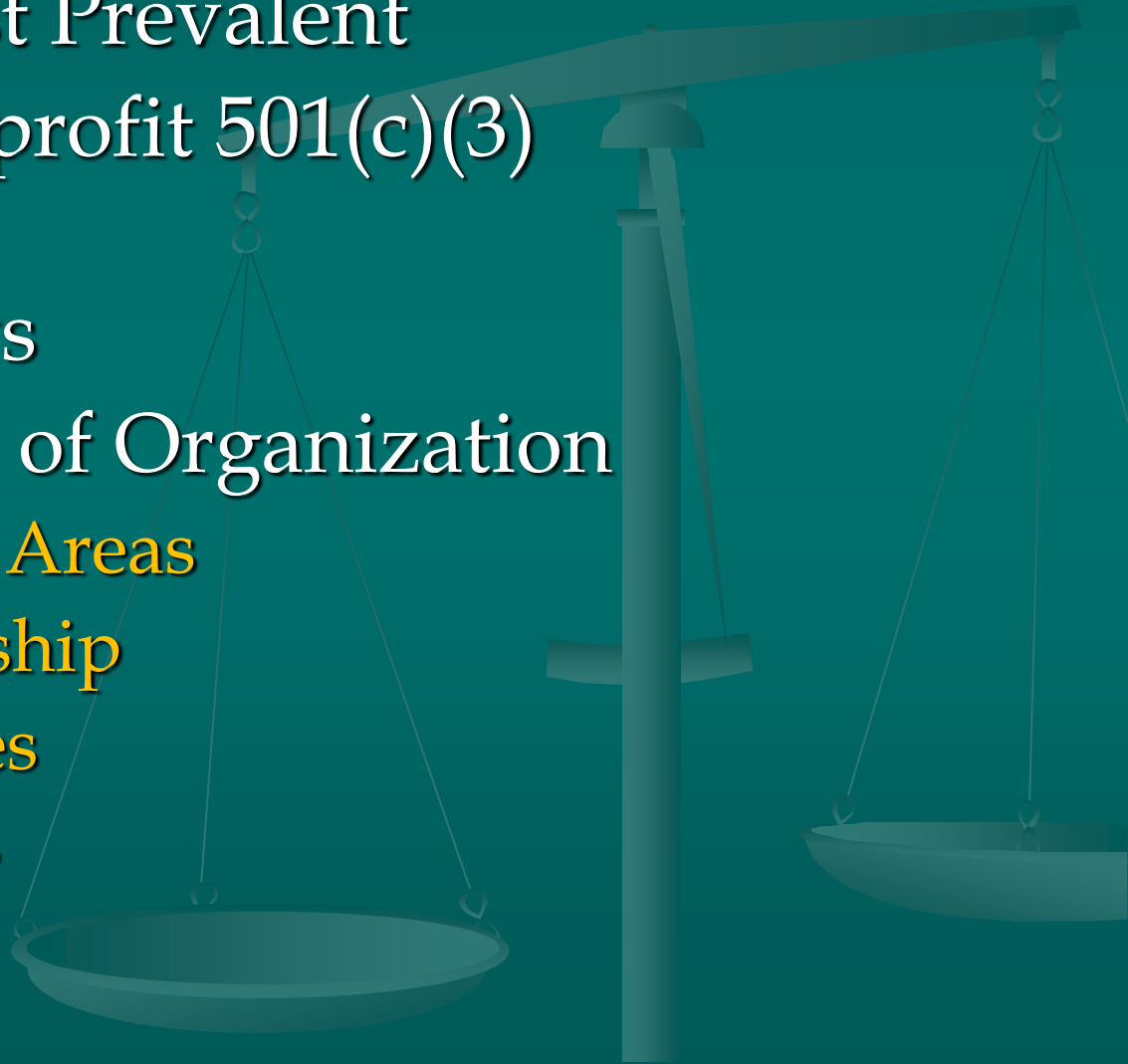
Types of Public Libraries

- Lack of Constitutional Provisions
- Who establishes public libraries?
- Public vs. Private
- Four Types of Public Libraries:
 - Association (“Private not-for-profit”)
 - Municipal
 - School District
 - Special District



Association Libraries

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



Municipal Libraries

- Establishment
- “Public” nature and applicable laws
- Relationship with municipality
- Critical Aspects of Organization
 - Typical Service Areas
 - Board Membership
 - Budgets & Taxes
 - Capital Projects

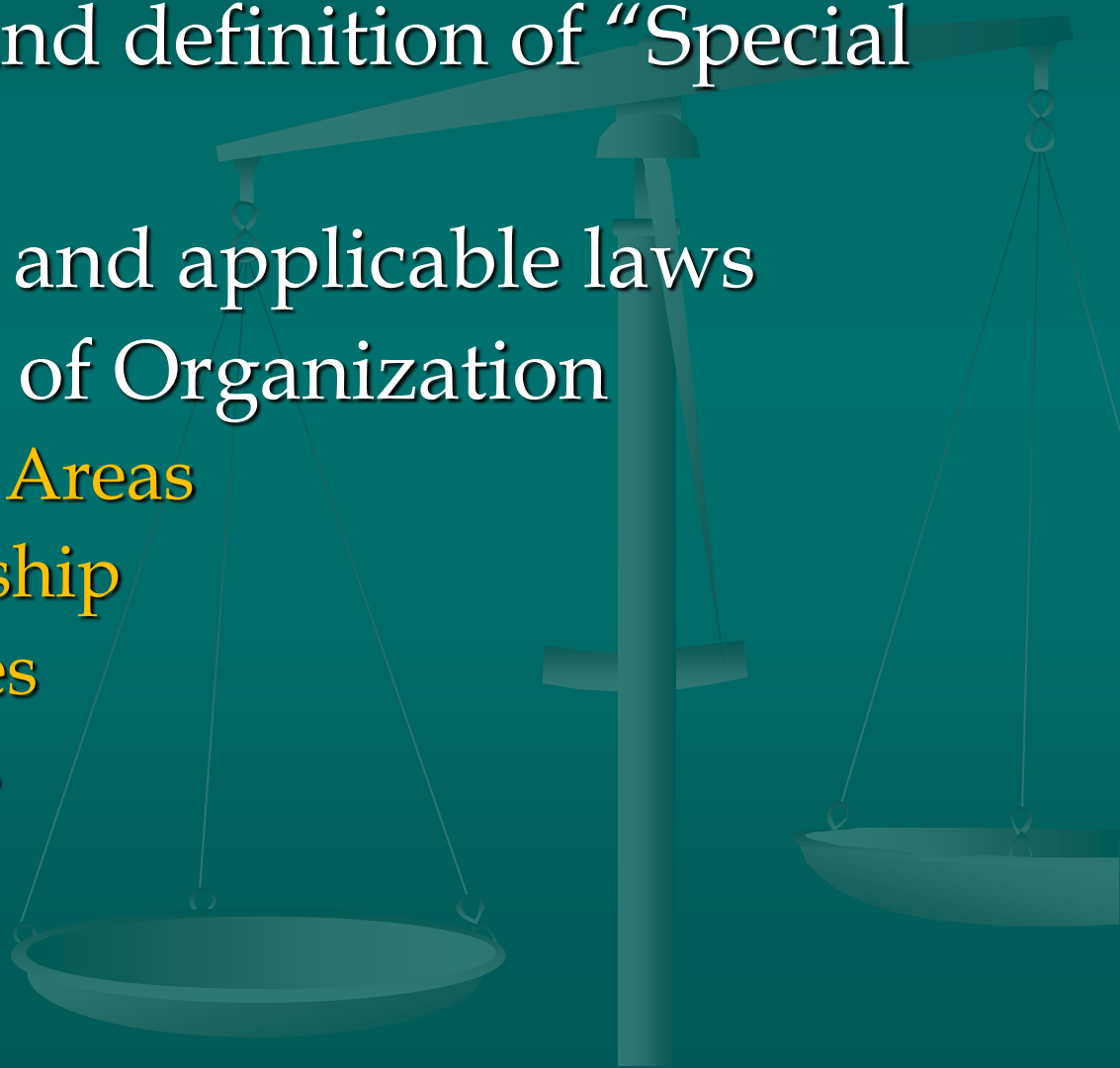


School District Public Libraries

- Establishment by community
- “Public” nature and applicable laws
- Legal structure and independence from School District
- Critical Aspects of Organization
 - Service Area
 - Board Membership
 - Budgets & Taxes
 - Capital Projects

Special District Libraries

- Establishment and definition of “Special District”
- “Public” nature and applicable laws
- Critical Aspects of Organization
 - Typical Service Areas
 - Board Membership
 - Budgets & Taxes
 - Capital Projects



Public library districts

A public library district is any library that:

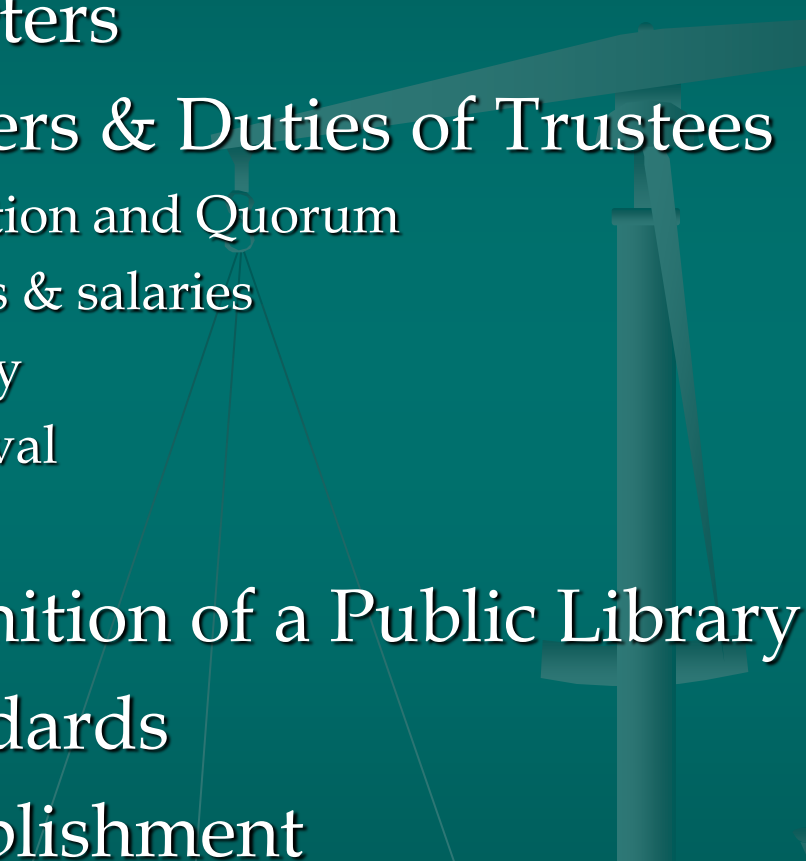
- Obtains a substantial amount of its operating budget through direct public vote.
- Has a board of trustees that is elected by eligible voters within the library's service area.
 - www.nysl.nysed.gov/libdev/libs/pldtools/index.html

Governing Laws

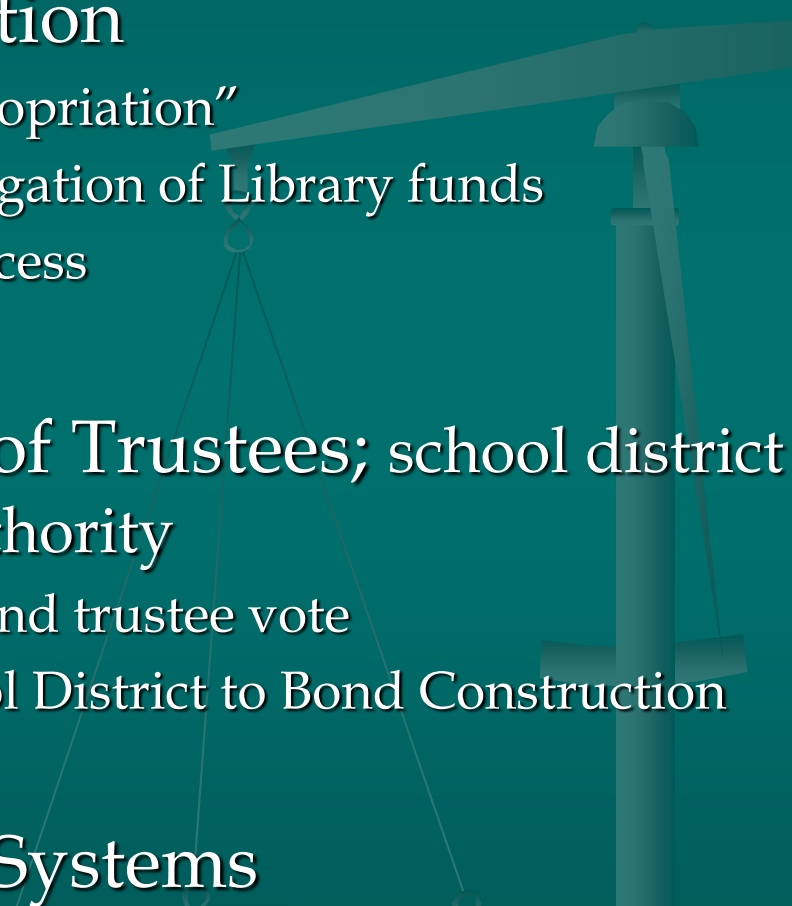
Public Library Law in New York State:

- www.nyla.org/images/nyla/files/Public_Library_Law.pdf
 - *Edited by Robert Allan Carter*
- www.nysl.nysed.gov/libdev/excerpts/index.html

Education Law – Critical Sections

- Section 216 – Charters
 - Section 226 – Powers & Duties of Trustees
 - Officers, Composition and Quorum
 - Staff appointments & salaries
 - Control of Property
 - Vacancies & removal
 - Section 253 – Definition of a Public Library
 - Section 254 – Standards
 - Section 255 – Establishment
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Education Law, continued

- Section 259 – Taxation
 - “Continuing Appropriation”
 - Receipt and Segregation of Library funds
 - “Chapter 414” process
 - Sec. 260 – Powers of Trustees; school district library authority
 - Separate budget and trustee vote
 - “Requiring” School District to Bond Construction
 - Sec. 272 – Library Systems
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Critical Laws for all Public Libraries

■ Open Meetings Law

- Ed Law 260a

■ Labor Law

- Collective Bargaining
- Hour & Wage
- Safety



Laws for “Public” Institutions

■ General Municipal Law

- Bidding and Procurement
 - www.p12.nysed.gov/mgtserv/purchasing
- Conflicts of Interest

■ Labor Law

- Taylor Law
- “Wicks” Law



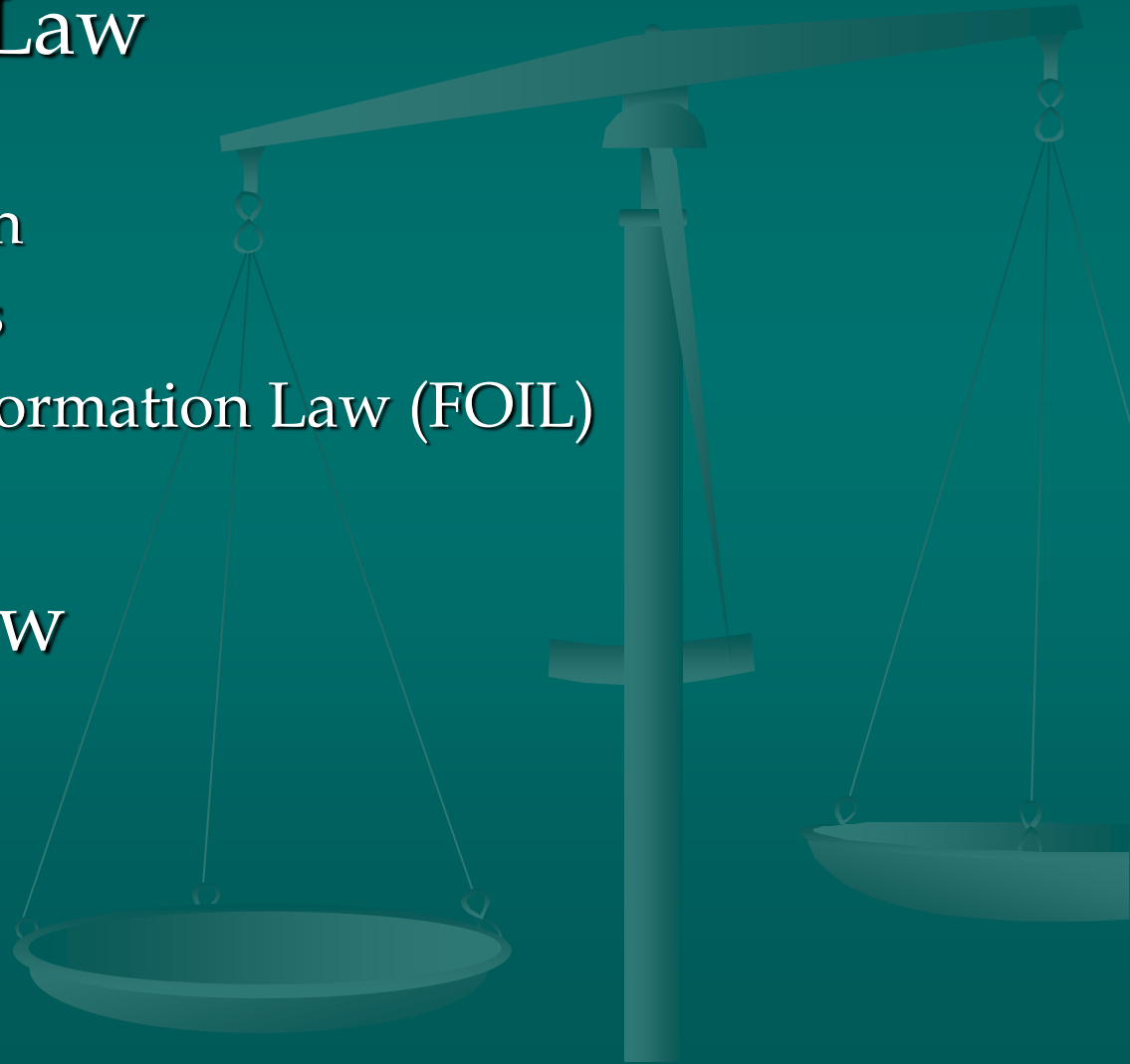
Laws for “Public” Institutions, continued

■ Public Officers Law

- Oath of Office
- Indemnification
- Open Meetings
- Freedom of Information Law (FOIL)

■ Civil Service Law

- Section 75

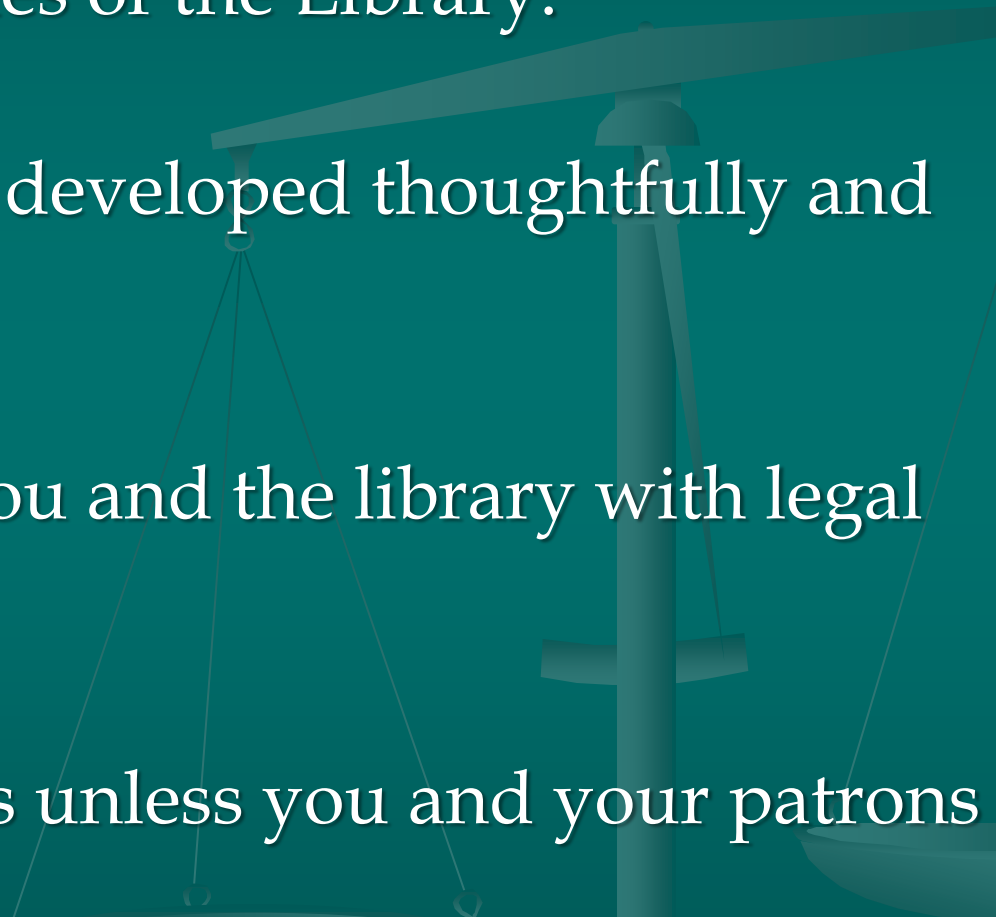


Commissioner's Regulations

- Authorized to establish regulations to implement law
- Most “Popular”
 - Minimum Standards – CR 90.2
 - Requirements for Library Directors – 90.8
 - State Aid and Annual Reports – CR 90.9
 - Public Library Systems – 90.3
 - “Free” Direct Access – 90.3 (d)



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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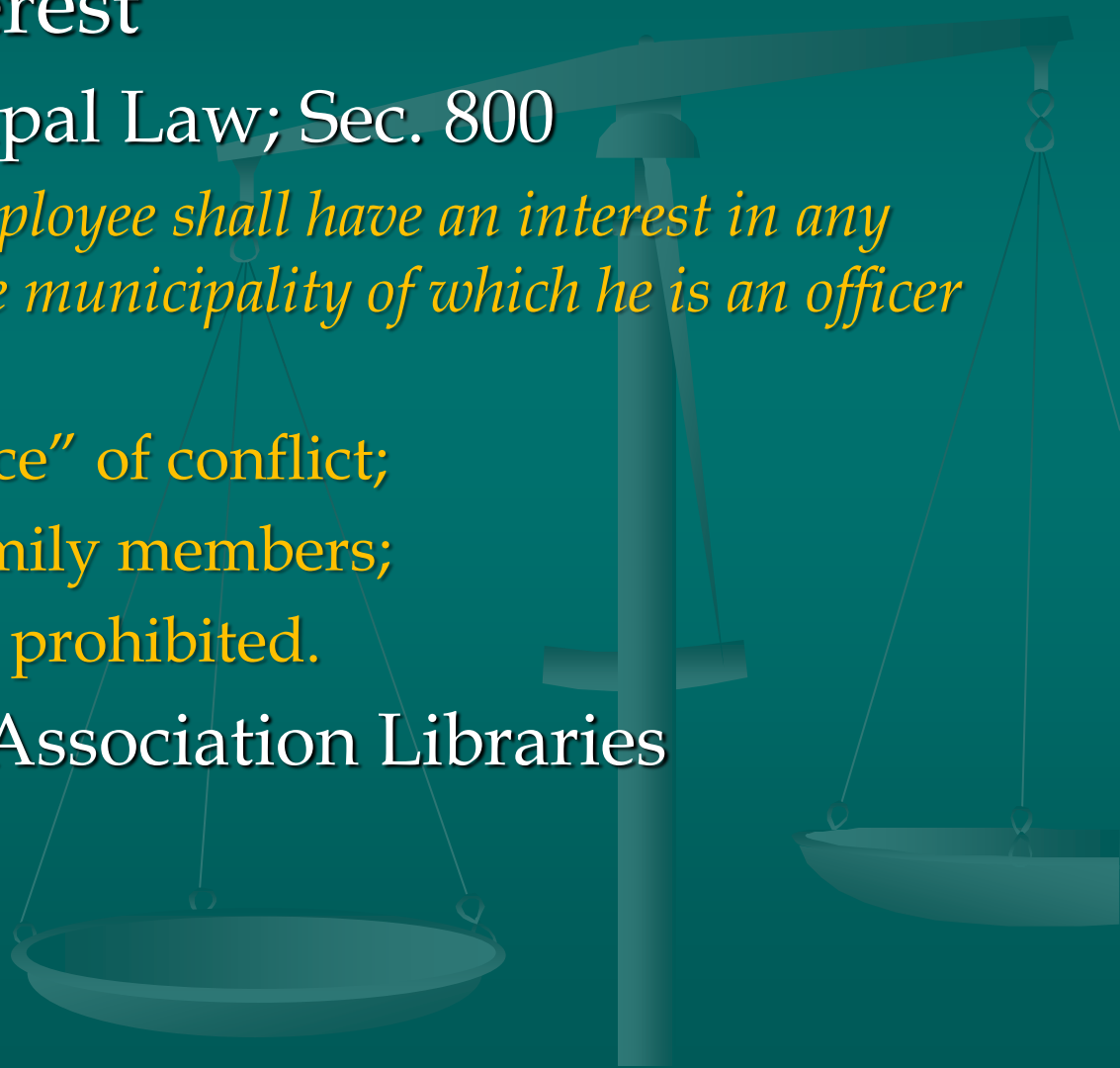
Trustee Ethics

■ 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...”*
- The “appearance” of conflict;
- Inclusion of family members;
- “Free” services prohibited.

■ Application to Association Libraries



Trustee Information Resources

- NYS Trustee Handbook – general responsibilities: www.nysl.nysed.gov/libdev/pltrust/handbook/index.html
- Library Trustees Association of New York State (LTA): www.librarytrustees.org/
- Commissioner's Decisions www.counsel.nysed.gov/Decisions
- Comptroller's Opinions www.osc.state.ny.us/legal/index.htm
- NYS Attorney General's Opinions: www.ag.ny.gov/appeals-and-opinions/subject-index
- Committee on Open Government: www.dos.ny.gov/coog/index.html
- Division of Library Development: www.nysl.nysed.gov/libdev/

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