

## **Enforcement of the Public Library System Membership Requirements**

### **Division for Libraries, Technology, and Community Learning Compliance Process**

For public libraries and counties to participate in, and receive the benefits of, the public library system state aid program, they must meet the membership requirements of Wisconsin Statutes s.43.15(4). It is primarily the responsibility of the system to ensure that its members are in compliance with statutes and that the compliance is maintained.

When a public library system determines that a member library or county is not in compliance with system membership requirements, the public library system must develop a plan for correcting the non-compliance problem. The plan must be submitted and approved by the Division for Libraries, Technology, and Community Learning. The public library system must also notify each non-complying library or county of the steps which will need to be taken to bring the library into compliance along with a timetable for implementation.

System boards may withhold grant payments, reduce or eliminate system services, or expel non-complying libraries or counties from the system. Before any formal board action is taken, however, the library system must receive approval for the action from the Division for Libraries, Technology, and Community Learning. A hearing is required before a public library system may expel a member library. Although not required, DLTCL highly recommends that a hearing be held by the system prior to the reduction of services to a member library. Expulsion of a member library will only be considered for approval by the Division after a reduction of system services has failed to bring the library into compliance.

The Division for Libraries, Technology, and Community Learning may reduce aid to a public library system if the system or any participant of the system fails to meet the requirements of s. 43.15(4). If the Division determines that the extent of non-compliance by a system member is sufficient to warrant a reduction in aid, it will make such a recommendation to the state superintendent. The state superintendent will hold a hearing to determine whether such a penalty shall be levied and how much that penalty should be. The hearing will be held in accordance with the provisions of Chapter 227, Wis. Stats.

### **Winnefox Library System Principles for Imposing Penalties on Libraries not Meeting System Membership Requirements**

The purpose of imposing penalties on libraries that are not in compliance with system membership requirements as set out in Wisconsin Statutes Chapter 43.15(4) is to bring the library back into compliance as quickly as possible. Under some circumstances, it may be possible for a non-complying library to avoid penalties by adopting a plan bringing the library into compliance and meeting the timelines of that plan.

Penalties can include reduction of services to libraries not in compliance with system membership requirements, loss of system grants or credits to the library, imposing or increasing fees for services, or expulsion from the system. Non-complying libraries are also restricted from receiving LSTA grants.

As far as possible, penalties imposed will be designed to impact only the library not in compliance with system membership requirements. Services to libraries in compliance with system membership requirements, and to their residents, should not be unnecessarily affected by another library's noncompliance.

Penalties will be imposed in proportion to the length of time and the degree to which a library is not in compliance with membership requirements. Minor or short-term noncompliance will result in lighter penalties than greater or long-term noncompliance. In general, plans to bring libraries back into compliance will include timelines with escalating penalties.

If system funding is reduced because of a library's noncompliance every effort will be made to avoid affecting services to libraries that are in compliance.

Penalties should not impede a library's efforts to meet system membership requirements.

Penalties must be approved by the Division for Libraries, Technology, and Community Learning (DLTCL) as well as the system board.

### **Winnefox Process for Imposing Penalties**

If system staff believe that a member library is not in compliance with one or more requirements for system membership, or if noncompliance is indicated on the library's public library annual report, the following process will be followed:

1. Work with the Director to correct the noncompliance issue.
  - a. System staff will contact the library director to determine whether or not the library is actually out of compliance with membership requirements and the reasons for the non-compliance.
  - b. Staff will attempt to work with the director to resolve the compliance issue by reviewing the facts and records related to the library's noncompliance.
  - c. If noncompliance is confirmed, a report and plan for bringing the library into compliance will be submitted to the DLTCL for approval and the system board and local library board will be notified.
  - d. On joint agreement of system staff and the library director this section may be skipped and the library board involved immediately.
  
2. Work with the Library Board to correct the noncompliance issue.
  - a. If the compliance issue is not resolved through review of the facts system staff will contact the president of the library board and request time at the next board meeting to discuss the problem.
  - b. System staff will present the noncompliance problem to the library board and attempt to work out a process to bring the library into compliance.
  - c. A report and plan for bringing the library into compliance will be submitted to the DLTCL for approval. If the plan is approved by DLTCL the system board will be asked to approve the plan.

3. Involve the System Board

- a. As part of the plan to bring the library back into compliance with system membership requirements the system board may impose penalties on that library. The process for doing so shall be:
  - i. The system board will review the plan and timelines developed by system staff for imposing penalties on the noncompliant library.
  - ii. The noncompliant library will receive at least three weeks' notice of the Winnefox board meeting at which the proposed penalties are to be discussed.
  - iii. A public hearing will be held at the Winnefox board meeting. Representatives of the noncompliant library shall be given opportunity to present their case.
  - iv. If any changes are made to the plan and before imposing any penalties, the revised plan will be resubmitted to the DLTCL for approval

Approved by the Winnefox Library System Board 11/17/2010

## Statutory References

### System membership Requirements for Municipal Libraries

43.15(4)(c)

(c) A municipal, county or joint public library may participate in a public library system if it meets all of the following requirements:

1. Is established under this chapter.
2. Is located in a county that participates in a public library system.
3. Is authorized by its municipal governing body or county board to participate in the public library system.
4. Enters into a written agreement with the public library system board to participate in the system and its activities, to participate in interlibrary loan of materials with other system libraries and to provide, to any resident of the system area, the same library services, on the same terms, that are provided to the residents of the municipality or county that established the member library. This subdivision does not prohibit a municipal, county or joint public library from giving preference to its residents in library group programs held for children or adults if the library limits the number of persons who may participate in the group program, or from providing remote access to a library's electronic database only to its residents.
5. The total amount of funding received from its governing body or, for a joint public library, its governing bodies, is not less than the average of such funding received for the previous 3 years. The following are not included as funding for purposes of computing the 3-year average:
  - a. Funding received from a state, federal or private source that has been designated as funding for library services.
  - b. Unspent funding appropriated by a municipality or county for library services for a prior year.
  - c. For a municipal or joint public library, funding received from a county.
6. Employs a head librarian who is certified as a public librarian by the department and whose employment requires that he or she be present in the library for at least 10 hours of each week that the library is open to the public, less leave time.
7. Beginning in 2008, annually is open to the public an average of at least 20 hours each week except that for a library in existence on June 3, 2006, annually is open to the public an average of at least 20 hours or the number of hours each week that the library was open to the public in 2005, whichever is fewer.
8. Beginning in 2008, annually spends at least \$2,500 on library materials.

### System Membership Requirements for Counties

43.15(4)(b)

(b) A county may participate in a federated public library system if it does all of the following:

1. Adopts and maintains the plan of library service submitted and approved under ss. 43.11 (3) and 43.13 (1).
2. Provides the financial support for library services required under sub. (2).
3. Enters into a written agreement with the public library system board to participate in the system and its activities and to furnish library services to residents of those municipalities in the county not maintaining a public library.

### Capital Costs and Maintenance of Effort

43.15(5) **Capital costs excluded.** For the purpose of determining the amount of financial support required under subs. (2) (b) and (4) (b) 2. and (c) 5., amounts spent for capital projects shall be excluded.

### Penalties and Expulsion

43.18(2m) **Expulsion.** With the approval of the division, a public library system may expel, or reduce aids or services to, a municipality or county that fails to meet the requirements under s. 43.15 (2) or (4).

43.18(3)(d) Prior to expelling a municipality or county from a public library system, the system board shall notify the municipality or county and the division, by registered mail, of the reason for the action under consideration and shall hold a public hearing concerning the action. The system board shall file a plan for alteration of the system territory under s. 43.13 (2) by November 15 of the year preceding the year in which the expulsion will take effect under s. 43.13 (3) and the division shall adjust state aid under s. 43.24 accordingly.

43.24(3) ...Beginning September 1, 1991, the division may reduce state aid to any system if the system or any participant in the system fails to meet the requirements of s.43.15(4).