

**FAQ: Library Board appointments and composition.**

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**Who appoints trustees to the library board?**

Library trustees are appointed by the municipal chair (mayor, village president, town chair). The appointments must be approved by the municipal board.

**How many are on the library board?**

Statutes specify that library boards in village and towns have five members, although the village or town may increase that number by two to make a total of seven. Library boards in 2<sup>nd</sup> and 3<sup>rd</sup> class cities have nine members and boards in 4<sup>th</sup> class cities have seven members.

**How long is a library trustee's term?**

Library trustees are appointed to 3-year terms. If a trustee is appointed to fill out the term of a trustee who has left the board, the new trustee will fill out the remainder of the predecessor's term rather than begin a full 3-year term.

**When do terms start?**

Statutes do not specify when terms for trustees appointed by cities, villages, and towns begin. Generally, a new trustee’s term would begin upon the expiration of a predecessor’s term. Terms for library trustees appointed by counties begin on 1 May.

**Can library trustees live outside the municipality?**

Yes. Statues allow up to two trustees appointed by cities, villages, and towns to live outside the municipality. Note that this limitation applies to *municipal* appointments; county appointments are not counted against the two allowed non-resident trustees.

**Can we have a trustee from outside our county?**

Yes. Aside from the limitation that no more than two trustees may live outside of the municipality there is no other residency requirement for trustees appointed by cities, villages, and towns. Trustees appointed by the county must live in the county.

**Does the school district administrator have to be on the board?**

Statute specifies that the school district administrator or representative shall be a member of the library board. The administrator or representative must be appointed by the municipal chair and approved by the municipal governing body, just as any other trustee is, and has the same rights and responsibilities of any other trustee. If the school administrator or representative lives outside of the municipality, that person counts as one of the two permissible non municipal residents.

**Can a municipal board member be on the board?**

Yes. One, but no more than one, member of the municipal board may be appointed to the library board. That person has the same rights and responsibilities as a library trustee as any other trustee has.

**Can the county appoint trustees to a municipal library board?**

Yes, statute allows a county to appoint up to five persons to a municipal library board, depending on the ratio of county funding to municipal funding. The formula is:

- County funding less than 1/6 of municipal funding                      no appointments allowed
- County funding 1/6 to 1/3 of municipal funding                      one member
- County funding 1/3 to 1/2 of municipal funding                      two members
- County funding 1/2 to 2/3 of municipal funding                      three members
- County funding 2/3 to 100% of municipal funding                      four members
- County funding equal to or greater than municipal funding                      five members

These appointments are *in addition to* the municipal appointments, so that a library board in a village or 4<sup>th</sup> class city could have as many as 10 or 12 members (5 or 7 municipal appointees plus 5 county appointees) and a board in a 2<sup>nd</sup> or 3<sup>rd</sup> class city as many as 14 (9 plus 5). Note that unlike municipal appointees, statute specifies that the term of county appointments begin on 1 May.

### **Can a county board member be on the library board?**

Yes. If the county is entitled to appoint one or more trustees to the library board one of these appointees, but no more than one, may be a member of the county board.

### **What authority does the library board have?**

Section 43.58 of Wisconsin Statutes gives the library board wide authority over the library's operations. In summary the library board:

- Has "exclusive control of the expenditure of all moneys collected, donated or appropriated" for library purposes
- Has "exclusive control of the purchase of a site and the erection of the library building whenever authorized."
- Has "exclusive charge, control and custody of all lands, buildings, money or other property "given or otherwise acquired for library purposes.
- Audits and approves "all expenditures of the library "
- Supervises the administration of the library
- Hires the library director and determines the number, duties, and compensation of library staff.

### **What officers must the library board have?**

Library boards must annually elect a "president and such other officers as they deem necessary".

### **Are there term limits for library trustees or library board officers?**

Statutes do not address term limits for library trustees or library board officers. A municipal policy regarding term limits would apply to municipal appointed trustees (but not county appointed).

### **May a trustee whose term has expired but who has not been replaced continue to serve on the library board?**

If this is a city or village library probably so. Sections 61.23(1) and 62.09(5)(e) of Wisconsin Statutes, dealing with terms of office for village and city officials, state: "Persons serving in appointive offices shall serve until their respective successors are appointed and qualify, unless otherwise provided by ordinance." You may want to check with your city or village clerk to see if an ordinance has been adopted regarding this issue. The situation for library trustees appointed by a town or county is unclear as there is no parallel language in Sec. 59 (counties) or Sec. 60 (towns).

### **Can a trustee be removed before their term is up?**

Yes. Village presidents and town chairs can remove appointees at their pleasure. Like appointments, the removal must be approved by the municipal board. For city and county appointees, however, the law is somewhat different. These trustees can be removed only for cause, defined as "inefficiency, neglect of duty, official misconduct or malfeasance in offices", and after a public hearing. More information is available on Page 4 of the May-June 2005 issue of *Channel*, published by the Wisconsin Department of Libraries, Technology, and Community Learning, and found online at <https://archive.dpi.wi.gov/channel/sites/default/files/imce/channel/pdf/chn4005/index.pdf>

If you are contemplating doing this, you should consult your municipal attorney.

**Can library trustees be paid for their services?**

Not really. Section 43.54 (1)(d) specifies that library trustees may not receive compensation for their services. It goes on to state, however, that trustees may be reimbursed for “actual and necessary expenses incurred in performing duties outside the municipality if so authorized by the library board” (Sec. 43.54(1)(d)1). It further states that trustees may receive “per diem, mileage, and other necessary expenses incurred in performing their duties if so authorized by the library board and the municipal governing body” (Sec 43.54(1)(d)2).

These two sections are somewhat contradictory but the consensus of staff at the Wisconsin Division for Libraries and Technology is that Sec. 43.54(1)(d)1 authorizes library boards to reimburse members for expenses for conferences and regional meetings, if their attendance has been authorized. If the board wishes to reimburse members for expenses incurred within the municipal boundaries or wishes to pay members a per-diem for meeting attendance they must get authorization from the municipal governing body under Sec 43.54(1)(d)2.

**Can someone under 18 be a member of a library board? It’s been suggested that we allow the high school to appoint a youth representative to the board.**

Yes. While persons holding elected office must be 18 years old there is no similar eligibility requirement for persons holding appointive municipal office (this was discussed in more detail in the April 2011 issue of *The Municipality*, published by the Wisconsin League of Municipalities and online at <http://lwm-info.org/846/Appointments-Vacancies-FAQ-6>). A school wishing to do this would have to recommend the student’s appointment to the municipal chair, who then would make the appointment, subject to the approval of the municipal board. Before doing this you may want to check with the municipality’s insurance carrier to be sure that the minor trustee would be covered under any liability or errors and omissions policy you may have covering public officials.

A library board can, of course, accept a non-voting student representative without going through the municipal appointment process. This representative could participate in deliberations and other board activities to the extent allowed by the library board.

**A candidate for our board is a legal resident but not a U.S. Citizen. Is this OK?**

Probably so, though you should double check with your municipal attorney. Sec 43.54(1)(a) states that trustees shall be residents of the municipality, not citizens, and there is no requirement that library trustees be eligible to vote. Also, since there are a few places in statute that specifically state US Citizenship as a requirement for a position, it can be assumed that if the Legislature had wanted to require trustees to be citizens they would have said so.

**If a library trustee is temporarily unable to perform his or her duties because of an illness, may the municipality appoint someone to fill the temporary vacancy until the trustee is able to return?**

In the case of a city or village, yes. Statute provides that if any municipal officer, other than an alderperson or trustee, "is incapacitated or absent from any cause," the governing body may appoint a person to discharge the officer's duties until the disability is removed. (Secs. 61.23(1) (villages) &

62.09(5)(d) (cities). The situation for library trustees appointed by a town or county is unclear as there is no parallel language in Sec. 59 (counties) or Sec. 60 (towns). If this situation arises you should seek legal guidance.

### **Can someone who has been convicted of a crime be appointed to the library board?**

Possibly. You would need to determine the nature of the offense. Article XIII, Section 3 of the Wisconsin Constitution states:

(2) No person convicted of a felony, ... and no person convicted, ... of a crime designated ... as a misdemeanor involving a violation of public trust shall be eligible to any office of trust, profit or honor in this state unless pardoned of the conviction.

Even if this person is eligible to serve as a trustee your municipal chair needs to consider the case before the appointment is made and may want to consult with the municipal attorney. If the nature of the offense is likely to call the person's integrity or trustworthiness into question, or to raise concerns about the proper care and stewardship of the library, they should not be appointed.

### **Where can I find more information?**

- *Trustee Essential 18: Library Board Appointments and Composition*  
<http://dpi.wi.gov/sites/default/files/imce/pld/pdf/TE18.pdf>
- *Trustee Essential 2: Who Runs the Library*  
<http://dpi.wi.gov/sites/default/files/imce/pld/pdf/TE02.pdf>

### **Statutory Language**

#### **43.54 Municipal library board composition.**

43.54(1)(a) Each public library established under [s. 43.52](#) shall be administered by a library board composed in each city of the 2nd or 3rd class or school district of 9 members, in each city of the 4th class of 7 members and in each village, town, tribal government or tribal association of 5 members. Two additional members may be appointed to a library board for a village, town, tribal government or tribal association so that the board has 7 members. Members shall be residents of the municipality, except that not more than 2 members may be residents of other municipalities. Members shall be appointed by the mayor, village president, town chairperson, tribal chairperson or school board chairperson, respectively, with the approval of the municipal governing body. Up to 5 additional members may be appointed under [s. 43.60 \(3\)](#).

43.54(1)(b) Upon their first appointment, the members shall be divided as nearly as practicable into 3 equal groups to serve for 2-, 3- and 4-year terms, respectively. Thereafter, each regular appointment shall be for a term of 3 years. Vacancies shall be filled for unexpired terms in the same manner as regular appointments are made.

43.54(1)(c) The appointing authority shall appoint as one of the members a school district administrator, or the administrator's representative, to represent the public school district or districts in which the public library is located. Not more than one member of the municipal governing body shall at any one time be a member of the library board.

43.54(1)(d) No compensation shall be paid to the members of a library board for their services, except as follows:

43.54(1)(d)1. Members may be reimbursed for their actual and necessary expenses incurred in performing duties outside the municipality if so authorized by the library board.

43.54(1)(d)2. Members may receive per diem, mileage and other necessary expenses incurred in performing their duties if so authorized by the library board and the municipal governing body.

43.54(1)(e) A majority of the membership of a library board constitutes a quorum, but any such board may, by regulation, provide that 3 or more members thereof shall constitute a quorum. For library boards organized under [par. \(am\)](#), a majority of those seats on the board that are currently filled constitutes a quorum.

43.54(1m)(a) Boards appointed for joint libraries under [s. 43.53](#) shall:

43.54(1m)(a)1. Consist of 7 to 11 members and be representative of the populations of the participating municipalities.

43.54(1m)(a)2. Be appointed by the head of the municipal governing body of each participating municipality and county board chairperson of the participating county.

43.54(1m)(b) [Subsections \(1\) \(b\) to \(e\)](#) and [\(2\)](#) apply to joint library boards.

43.54(2) As soon as practicable after the first appointments, at a date and place fixed by the appointing officer, and annually thereafter within 60 days after the beginning of terms, the members of the library board shall organize by the election, from among their number, of a president and such other officers as they deem necessary.

43.54(3) In any city of the 2nd or 3rd class, the common council may, by a two-thirds vote, provide for the reduction of the number of appointive members of the library board to 7. Thereupon, whenever a term expires or a vacancy occurs, no appointment shall be made until the number of such members has been so reduced, whereupon the remaining members shall be by lot divided by the common council into 3 classes, 3 to serve for 3 years, 2 to serve for 2 years and 2 to serve for one year, respectively, from the date of such completed reduction, and thereafter each regular appointment shall be for a term of 3 years.

#### **43.60 County appointments to municipal and joint public library boards.**

43.60(3)(a) A county chairperson, with the approval of the county board, may appoint from among the residents of the county additional members to the library board of a public library of a municipality located in whole or in part in the county, for a term of 3 years from the May 1 following the appointment, and thereafter for a term of 3 years, as follows:

43.60(3)(a)1. If the annual sum appropriated by the county to the public library is equal to at least one-sixth, but less than one-third, of the annual sum appropriated to the public library by any municipality in which the public library is located during the preceding fiscal year, one additional member.

43.60(3)(a)2. If the annual sum appropriated by the county to the public library is equal to at least one-third, but less than one-half, of the annual sum appropriated to the public library by any municipality in which the public library is located, 2 additional members.

43.60(3)(a)3. If the annual sum appropriated by the county to the public library is equal to at least one-half, but less than two-thirds, of the annual sum appropriated to the public library by any municipality in which the public library is located, 3 additional members.

43.60(3)(a)4. If the annual sum appropriated by the county to the public library is equal to at least two-thirds, but less than the annual sum appropriated to the public library by any municipality in which the public library is located, 4 additional members.

43.60(3)(a)5. If the annual sum appropriated by the county to the public library is equal to at least the annual sum appropriated to the public library by any municipality in which the public library is located, 5 additional members.

43.60(3)(b) For a joint public library of 2 or more municipalities, the "annual sum appropriated to the public library by any municipality in which the public library is located" under [par. \(a\)](#) is the total sum appropriated by all of the municipalities participating in the joint library.

43.60(3)(c) A county chairperson may appoint a county supervisor to serve as a member of a library board of a public library of a municipality under [par. \(a\)](#), but no more than one county supervisor so appointed may serve on the library board at the same time.

43.60(4) If an additional member appointed to a library board under [sub. \(3\) \(a\)](#) loses the status upon which the appointment was based, he or she ceases to be a member of the library board effective on the following May 1.

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