

# trustee tale

## Newsletter for Public Library Trustees

### Email and the Wisconsin Open Meetings Law

By Mark Arend

As email communication has become more common there have been questions about the use of email to discuss library business. Wisconsin's Open Meetings law, sections 19.81 - 19.98 of Wisconsin Statutes, requires that all meetings of public bodies (including library boards) be conducted only after public notice, including the time and place of the meeting and the items to be discussed, and be held in an accessible location. Even non-physical meetings, for example, a telephone conference call, must be held in compliance with the Open Meetings law.



Email becomes a concern because a series of email exchanges between trustees could be considered a "walking quorum" meeting under Wisconsin law. A "walking quorum" is a series of gatherings among small groups of trustees, each less than quorum size, who agree, tacitly or explicitly, to act uniformly in sufficient number to reach a quorum.

Although two Trustees may discuss library business via email without violating the open meetings law, features like "forward" and "reply to all" in email programs deprive a sender of control over the number and identity of the recipients who eventually may have access to the sender's message. Moreover, because of the speed of email communication, it is quite possible that a majority of the library board may receive the sender's message in an almost real-time basis, the way they would receive it in a board meeting. For this reason a series of email messages between board members can easily become, in effect, a meeting of the board.

Because of these concerns the Wisconsin Attorney General's office recommends that Trustees not use email to discuss library business.

For more information contact your System staff or see:

***Trustee Essential 14: The Library Board and the Open Meetings Law***

*Wisconsin Open Meetings Law*, published by the Wisconsin Department of Justice  
<http://www.doj.state.wi.us/dls/spar.asp#pubrec>

The League of Wisconsin Municipalities' discussions of the open meetings law at  
<http://www.lwm-info.org/legal/faq/faq10.html>.

# Changes in Wisconsin Library Confidentiality Law

A recent change in State law will require your library to change its policy on confidentiality of library records.

Formerly, Section 43.30 of Wisconsin Statutes prohibited library staff from releasing any information regarding an individual's use of library materials or services, except by court order or under certain limited circumstances. Wisconsin Act 207, signed into law in April, changed this to require public libraries to release to the custodial parent or guardian of a child under 16 any records regarding the child's use of library services or materials. This includes information on what the child has checked out or reserved, items overdue, fines, and any record of library computer use.

Some library directors are concerned how they will determine who is the "custodial parent". This law defines a custodial parent as "any parent other than a parent who has been denied periods of physical placement with a child under s. 767.24(4)". In situations involving separation or divorce, the courts will generally order periods of physical placement to both parents, although in some cases the courts will deny periods of physical placement to one or both parents.

The essential issues for the library to determine are: (1) whether the person requesting the records is who they say they are, (2) whether they are indeed the child's parent or guardian, and (3) whether they have been denied periods of physical placement with the child under s. 767.24(4). Libraries should have a

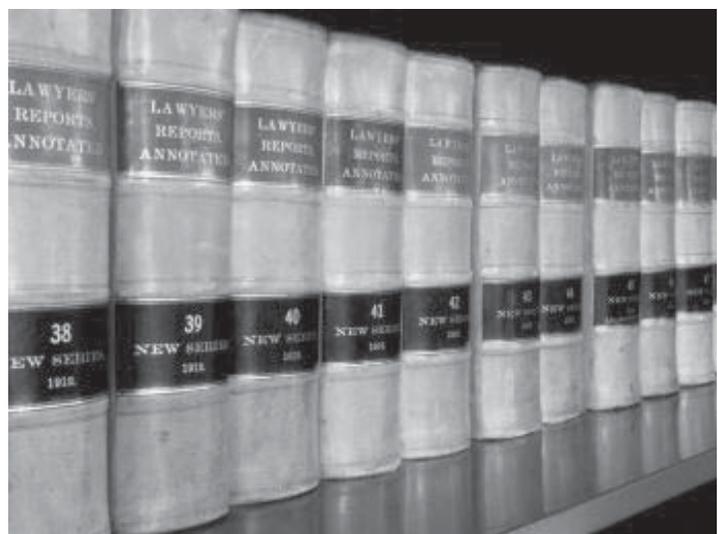
written board-approved policy addressing what will be acceptable documentation for determining these issues.

It is recommended that libraries strike a balance between having documentation requirements that are so lax that they are easily sidestepped, perhaps creating child safety and/or liability issues, and those that may be so demanding that they defeat of the purposes of the new law. Some parents will readily have access to such proof as a birth certificate; others may not. A court order of divorce which names the children may assist in this determination, and the court papers should also indicate whether, (at least at the time of divorce) the parent was denied periods of physical custody. Possession of the child's library card or (on the telephone) library card number may be considered adequate, but to protect against the possibility that the child's library card was improperly obtained, it may be advisable to request additional identification.

A library policy may conclude with a type of "catchall" provision that provides that the library will accept "other documents that demonstrate to the library's satisfaction that the requester is the custodial parent or guardian of the child whose records have been requested". It is also recommended that the policy allow for an appeal of library staff decisions to the director and board.

There is more information on this issue at <http://www.dpi.state.wi.us/dltcl/pld/ab169faqs.html>

If you have further questions, contact your System staff or Mike Cross, Director of Public Library Development, Wisconsin Division for Libraries, Technology, and Community Learning, at [michael.cross@dpi.state.wi.us](mailto:michael.cross@dpi.state.wi.us) or (608) 267-9225.



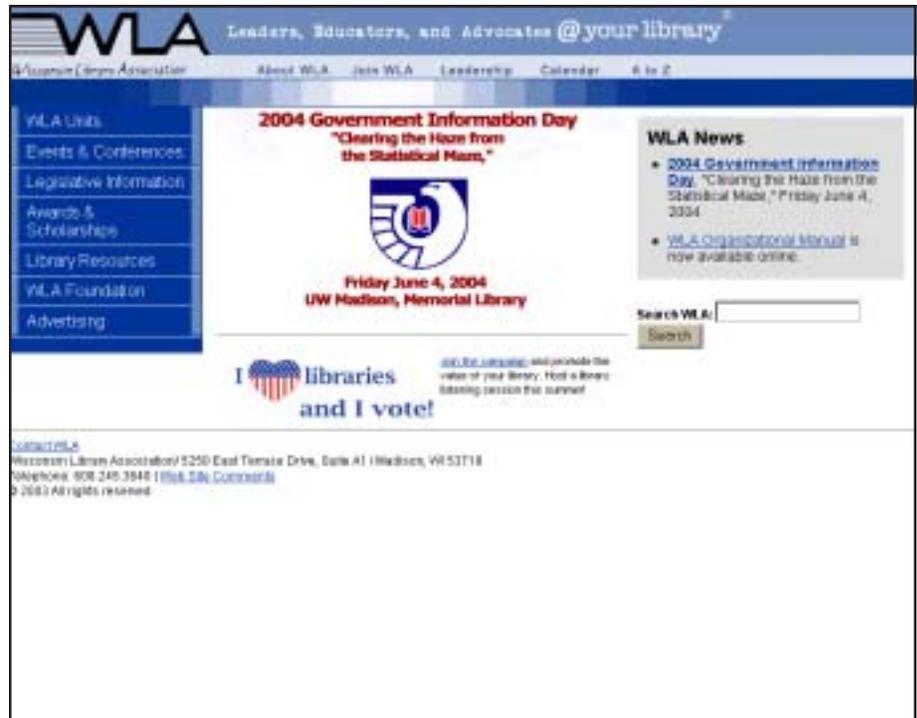
## WLA—Your Source for Information on the Web

The newly redesigned Wisconsin Library Association website has a wealth of information for Trustees.

- Your first stop should be **WLA Units**. This will point you to the Wisconsin Library Trustee Association (WLTA) and its **Trustee Resource Links**.
- **Events and Conferences** has information on upcoming educational opportunities for library staff and trustees.
- **Legislative Information** will give you information on state and local legislative issues relating to libraries and links to agencies and organizations with more information.
- Under **Library Resources** you'll find information on public relations and advocacy, links to Wisconsin library-related websites, and links to library associations.

You'll also find information on the WLA's new campaign: *I love libraries and I vote*. A 2003 statewide survey of library users and nonusers showed that library users are more likely to vote than nonusers.

Check out the WLA website at <http://www.wla.lib.wi.us/>



## Defibrillators in Libraries

More and more public agencies like libraries and schools are buying a portable automated external defibrillator (AED), which non-medical personnel can use to treat someone who suffers sudden cardiac arrest. The defibrillator shocks the heart out of a fatal rhythm. If it is applied within the first three minutes the survival rate is much greater than it is after longer delays. The so-called Good Samaritan laws protect lay people from prosecution if the victim does not survive.



To read more about this issue, go to the links at <http://www.owls.lib.wi.us/info/links/health.htm>.

### TRUSTEE SOAPBOX

*Do you have a question, comment or topic to suggest for a future TrusteeTale? Send an Email to Mark at:*  
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