

ALABAMA PUBLIC LIBRARY SERVICE ALABAMA  
ADMINISTRATIVE CODECHAPTER 520-2-3  
LIBRARY DEVELOPMENT DIVISION PLANNING GUIDELINES FOR PUBLIC  
LIBRARY SERVICE

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520-2-3-.01	<u>Guidelines For Developing Or Revising Agreements To Establish Joint Libraries In Alabama.</u>

(1) Code of Ala. 1975, §11-90-4, allows joint libraries to be created and their governing boards to be appointed. On February 11, 1980, the Alabama Attorney General released an advisory opinion which stated the conditions under which a joint library could act on behalf of its member libraries must be agreed on among the parties through a written contract.

(2) New or revised agreements to establish joint libraries under Code of Ala. 1975, §11-90-4, should be written and specific, capable of serving as the basis of a library region, inclusive, representative, equitable, detailed, reviewed, and renegotiated.

(a) Written and specific: Code of Ala. 1975, §11-90-4, which serves as the legal authority for joint libraries, provides that cities, counties, and public libraries may "contract" to establish larger units of service. As a verbal contract is subject to the vagaries of individual recollections, it can never serve as the basis for the creation of a joint library. A joint library should be created or revised through a written contract drawn up by a competent attorney with the assistance of the Alabama Public Library Service (APLS) and the Alabama Attorney General.

(b) Capable of service as the basis of a library region: As APLS has the responsibility for designating a joint library as regional, and thus eligible for federal funds under the Library Services and Technology Act (LSTA), the agreement to create a joint library should be developed in such a way as to enable the joint library to qualify for regional status.

(c) Inclusive:

1. No library board, or local government can be held to be bound to an agreement which it has not ratified. As indicated in the Alabama Attorney General's opinion of February 11, 1980, even the governmental body which created a public library cannot act on that library's behalf without the approval of the library's governing board.

2. The agreement to create a joint library should have the approval of all the bodies responsible for providing library service within the geographical area of the joint library. In municipalities or counties where there is an existing library board, the library board needs to be a partner to the agreement. In municipalities or counties without a library board, the "power thus to contract shall vest in the county commission of the county or the government body of the municipality". Code of Ala. 1975, §11-90-4.

3. The need to be inclusive extends into the future as a municipal or county library "created subsequent to the establishment of a joint library would not be subject to the joint library absent a contractual agreement to that effect". Alabama Attorney General's Opinion of February 11, 1980, to Anthony W. Miele, APLS Director.

(d) Representative: The experience of decades of joint library development within Alabama demonstrates that joint library effectiveness is enhanced when all parties to the agreement creating a joint library have voting representation on its governing board. It is understood that the existence of a large number of member libraries and/or municipalities and counties within a joint library's area will sometimes make direct, on-going representation impossible. However, it is recommended that:

1. Where feasible, joint library boards should have no more than five members.

2. New joint libraries with eleven (11) or fewer parties to an agreement should have a representative from each party on the joint library board. Where a local government has created a public library to provide service within its jurisdiction, the local library board should appoint the representative of the locality's library interest on the regional board. It is recommended that, in no case, the number of board members be allowed to exceed fifteen (15).

3. New joint libraries with more than eleven (11) parties to an agreement should develop a means to alternate

representation from each of the signatory parties on the joint library board. It should be noted that this recommendation is made with the knowledge that the size of certain parties to a joint library agreement, the strength of different collections, and the financial burden borne by the different parties for the support of the joint library, could mandate that these parties be accorded on-going or larger representation in its governance. Such permanent or enlarged representation, and the reasons for it, should be included as part of the agreement.

(e) Equitable: The development of joint libraries both within and without Alabama demonstrated that long-range success is dependent on the perception that the benefits and burdens are distributed in an equitable manner. No joint library agreement should be written where the legitimate interests of the population served, member libraries, and city and county governments are not recognized and addressed.

(f) Detailed: An agreement to establish a joint library should detail as far as possible the benefits received and obligations incurred by each party to the agreement.

(g) Reviewed and renegotiated: An agreement to establish a joint library should include as part of its terms provision for periodic review by the same signatory parties to determine if the joint library is functioning as envisioned. It is recommended that such reviews take place every year but not less than once every three years. Where a review demonstrates that the agreement is in need of revision, it should be renegotiated by the parties involved.

**Author:** Alabama Public Library Service

**Statutory Authority:** Code of Ala. 1975, §11-90-4.

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## 520-2-3-.02

### **Guidelines For The Development And Approval Of Agreements To Provide Library Service Across State Lines.**

(1) These Guidelines for the Development and Approval of Agreements to Provide Library Service Across State Lines have been jointly developed by the Alabama Attorney General and the APLS Executive Board with the assistance of the Interstate Library Cooperation Committee. Their purpose is to aid eligible public library agencies, defined as "any unit or agency of local or state government operating or having power to operate a library", who are seeking to enter into such agreements in order to raise the

level of library service offered to the citizens of Alabama and adjacent states.

(2) Created in response to a growing number of requests for information on providing cooperative library service where multi-state delivery would be "effective", "adequate", and "efficient", these Guidelines aim at providing librarians and their governing bodies with an understanding of the procedures necessary to develop interstate library agreements among two or more states. In no way do these Guidelines attempt to substitute for those sections of the Code of Ala. 1975, which define the statutory requirements for such agreements. Rather, they are designed to serve as an aid to understanding the extent and meaning of the statutes.

(3) Although these Guidelines are intended primarily for the benefit of Alabama's public libraries, many of the principles within will prove useful to public school systems or public colleges and universities seeking to provide, or benefit from, library service across state boundaries. Both the Alabama Attorney General and the APLS Director will assist, where requested, in the development of agreements. All such non-public library agreements will require approval by the Alabama Attorney General and copies of such agreements must be filed with the APLS Director, Alabama's designated compact administrator.

(4) Eligible parties to an interstate library agreement: Public library agencies may contract to establish interstate library districts through a library agreement for the provision of specified library services. Private library agencies cannot establish such districts but may participate in them once they are established. The Code of Alabama provides the following definitions:

(a) Public library agency means any unit or agency of local or state government operating or having power to operate, a library

(b) Private library agency means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

(c) Library agreement means a contract for establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

(d) In addition, the Code of Alabama implies the following definition: Interstate library district means the areas of two or more states which are included in the contract or library agreement providing for service across state lines. As explained in Section 41-8-21, Article III, an interstate library district may be as simple as a contract defining how

the citizens of a town in one state can make use of a public library supported by a town in an adjacent state. On the other hand, Article IV of the same section allows for the creation of a more elaborate type of interstate library district which, instead of providing for services from an existing public library agency, actually has its own governing board, facilities, and staff to provide services itself.

(5) Recommended procedures for establishing an interstate library agreement:

(a) It is highly recommended that the Alabama public library agency, as defined in Section 4.1 of these Guidelines contact APLS before attempting to enter into an interstate library agreement. The complexities involved in securing ratification of such agreements from a minimum of four agencies in two different states require a considerable amount of time and effort. Since such agreements involve a large number of interested parties, the effort to upgrade local levels of library service can only suffer if the agreement is rejected in the review process because it violates the laws or library regulations of either state.

(b) A public library agency seeking to enter into an interstate library agreement should obtain the services of qualified legal counsel. Since the interstate library agreement is actually a contract involving the expenditure of public funds, the individuals or organizations involved could be held liable for any misuse of such monies.

(c) Any interstate library agreement will need to be drawn up in recognition that it could require the approval of additional state agencies, both within Alabama and in the state which contains the other party(s) to the agreement. As a result, the contracting parties may wish to consult these agencies before the agreement is actually signed. Code of Ala. 1975, §41-8-21, Article VIII, outlines the approval process.

(d) The Code of Ala. 1975, provides great flexibility in allowing the contracting parties to develop an interstate library agreement—and the resulting interstate library district—in a manner best suited to local needs. As a result, it is impossible to provide examples of every possible type of interstate library agreement.

(6) The parties to an interstate library agreement may decide, at their option, to seek the necessary approvals first in Alabama or in the other state involved in the agreement. Where the agreement involves Alabama public libraries or public library service in the normal use of the term, the following procedures must be followed:

(i) The agreement is to be sent to the APLS Director, who will review its terms for compliance with the regulations governing

state and federal funding for public libraries. If the agreement is in accord with these regulations, the APLS Director will sign the document and forward it to the Alabama Attorney General.

(ii) If the Alabama Attorney General finds that the agreement is in accord with Alabama law, he will approve it and, if necessary, will send it to any other state agencies whose approval is required by the terms of the contract.

(iii) If approval of the agreement has not yet been obtained from the other state involved, it will be returned to the APLS Director for transmission to his counterpart in the other state.

(iv) After all necessary approvals have been obtained, the parties to the interstate library agreement must deposit an original of the agreement with each of the state agencies whose approval was required. This necessity should be kept in mind at the time when the agreement is signed.

(v) As provided by law, the copy sent to the APLS Director will become the copy of record at the state level.

(7) Financial support of interstate library districts: All interstate library agreements should address, within the contract, the basis of support for whatever library service is to be provided. The varied nature of the possible parties to an interstate library agreement once again makes it impossible to suggest criteria suitable to all agreements. However, certain broad observations can be made.

(a) It is illegal for the public funds of one state to be used for the benefit of the citizens of another state.

(b) The costs of providing library service under an interstate library agreement should be borne on a fair and equal basis by the areas served. For public libraries, it is recommended that the per capita level of local support to be used as a guideline in this area. This is recommended since a per capita basis provides for a fair distribution of costs and also avoids the need to frequently re-write the agreement in a time of rising inflation and increasing library costs.

(c) If an interstate library agreement provides for differing levels of service, the per capita basis of support should be adjusted accordingly.

(d) If the interstate library agreement provides for public library service, the Alabama part of the interstate library district is eligible for Alabama state aid on the basis of recognition as an independent library, a member library of a library region, or a library region. Such recognition is

contingent on meeting the appropriate criteria for state aid. The district is eligible for federal grants administered by the Alabama Public Library Service provided that it is recognized as an Alabama library region, or a part of an Alabama library region which otherwise receives federal funds, or seeking to achieve the status of a library region.

(8) As provided by law, the APLS Director is the administrator of the interstate compact law. All interstate library agreements are required to be on file with the APLS Director who, on request, will make available copies of agreements which have already received state approval.

**Author:** Alabama Public Library Service

**Statutory Authority:** Code of Ala. 1975, §§41-8-1 to 41-8-25. The Alabama definitions of parties eligible to enter into such agreements are extensive and are scattered throughout Alabama's library laws. However, the definitions most applicable to public libraries are contained in Sections 11-90-1 to 11-90-4 and 11-57-1 to 11-57-26. The legislation outlining the role of the Alabama Public Library Service is presented in Section 41-8-1 through 41-8-25, with the general definition of powers and duties contained in Section 1-8-5.

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