

Summary - Legal Issues for Libraries & Librarians – April 27th, 2006.

Attendees: Andrew Toulas & Sherry Chang.

This seminar at Columbia University presented by Lisa Kotasek, J.D dealt with every day legal situations that occur in libraries. Most notable were topics dealing with copyright, patron privacy, safety and liability, how to work with your university counsel, sexual and discriminatory harassment, and union issues.

Many of the participants were concerned with copyright law and fair use (17 U.S.C 107). Given that many of the participants had many years of experience in copyright and libraries, there was extensive dialog in this area. Unfortunately, given that the law has not caught up with much of the technology there were many areas left unanswered. One interesting topic dealt with how Cornell University was being sued by a publishing group for abusing copyright law with their e-reserve collection. The outcome of this case will affect many universities and the way e-reserve is handled throughout the country.

The best way to deal with patron privacy issues as discussed by the group was to have a clearly defined policy indicating the libraries responsibility in releasing patron's information. If an official officer of the law has a warrant for these records, there should be a specific person that can evaluate the request and turn these records over.

Libraries have a duty to ensure that the physical environment is safe for all patrons entering the library. The library can be held responsible for slip and fall cases if areas are not well marked, lit or the flooring is coming apart. If one sees a potential hazard in ones library, a report should be made to maintenance and the area should be marked with a sign until it can be fixed. A question of liability to the safety of minors left alone by there parent/guardian arose during the seminar. Given that a library is not advertised as a day care center, they do not have the responsibility of a day care center; but a library can post a sign limiting the hours of unsupervised children to insure reduced liability.

The best advice given when working with university council was to ask *yes* or *no* questions. If you need more information, set up an appointment with council to a structure policy. Do not try and structure a policy from a collection of *yes* or *no* questions, instead allow your legal council the opportunity to structure a legal argument for your practical needs.

Sherry Chang submitted "Code of Behavior" drafted by members of our public services unit. Lisa presented the summary of the document for discussion. Since this document had been approved by the Stony Brook University Attorney, there was no question raised about the content. Rather, Lisa advised the group to follow a similar process of approval through legal council when drawing up legal documents. She sent a copy of the document to all attendees after the meeting thru e-mail.

Sexual harassment was broken down into to types : 1. quid pro quo (QPQ) and 2. a hostile work environment. QPQ is the most prevalent and deals with a superior granting special permissions to a subordinate for sexual favors. Many institutions have strict policies which limit the involvement between co- workers to eliminate liability in this situation. A hostile work environment can be second party where an employee speaks, acts or even displays materials which is offensive to a co-worker. Third party

sexual harassment occurs when co-workers involvement becomes distracting or offensive to another co-worker. It is important that evidence of sexual harassment be documented in an appropriate order. One should first bring evidence of sexual harassment to the closest in the chain of command that is not involved with the harassment. If there is no satisfaction at this level, seek out human resources and the next level of management.

Discrimination at the work place was broken down into, age, disability, veteran, ethnicity, race and sex. The best way to avoid discrimination at the work place is not to venture into topics of discussion that border on these descriptors. Then again the presenter instructed us that she believed that all individuals should carry liability insurance. I believe she was just being extra cautious, but in these litigious times she may have a point. Much of her discussion on discrimination was directed towards hiring committees, but it was also applicable to the treatment of employees in the work place.

In summary, I believe that all who went to the seminar came away with more information than they arrived with. If questions were not answered directly by the instructor, there was plenty of class discussion which provided insight from various types of academic, public and law libraries from all over metropolitan area.