Legal Matters in Georgia Public Libraries: An Update for Directors

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Introduction

Legal issues arise in all aspects of daily life, and public libraries are no exception. Every librarian who wants to make wise policy decisions and protect the organization from legal challenges must delve into a wide range of legal topics. However, unlike research on a historical event, legal research must be continually updated. The answer to a legal question can and will change as laws and regulations are revised and judicial interpretations evolve over time.

The purpose of this work is to update Georgia library directors on laws that routinely affect public libraries. Remaining current on the status of pertinent laws and understanding how courts are interpreting those laws are necessary tasks for librarians who, on behalf of their organizations, seek to avoid legal quagmires or at the very least emerge favorably from legal entanglements.

Employment Law

Final Overtime Rule

In May 2016, the United States Department of Labor issued updates to regulations regarding the payment of overtime compensation. The revisions increase the salary level required for the white collar exemptions (executive, administrative, and professional). The estimate was that the new rule increased by 4.2 million the number of employees nationwide who would become eligible for overtime compensation. Those changes were scheduled to go into effect on December 1, 2016.

A few days before the rule took effect, a United States District Judge in the Eastern District of Texas issued an injunction prohibiting enforcement of the new overtime rule nationwide. The suit in Texas was brought by a coalition of 21 states, including Georgia, against the Labor Department. The basis for the injunction was the judge's conclusion that the new regulations exceeded the authority delegated to the agency by Congress.

The Labor Department quickly filed an appeal of the injunction to the United States Court of Appeals for the Fifth Circuit. Initially, the Labor Department asked the appellate court to enter an expedited briefing schedule on the matter – presumably to ensure that the case would be submitted to the Fifth Circuit for a decision before Andrew Puzder, President Trump's first nominee for Secretary of Labor, could be confirmed. Puzder ultimately withdrew from consideration and

President Trump nominated Alexander Acosta, who was confirmed by the Senate on April 27, 2017. While the appellate court granted the Labor Department's request for expedited briefing, the parties have repeatedly consented to extensions of time to file briefs, which now runs through June 30, 2017. Other supporters of the new rules, including Vermont Senator Bernie Sanders, have filed amicus briefs in the appellate court urging reversal of the district court's injunction.

Fearing that the Labor Department under the Trump Administration would abandon the appeal, the AFL-CIO has made efforts at the trial level to intervene as a party-plaintiff in the lawsuit. In other words, the pro-labor organization believes that a Trump Labor Department will no longer be an advocate for rule changes made by the Obama Labor Department. The Texas trial judge has not yet ruled on the motion to intervene.

Employers who raised salaries in anticipation of the injunction can revisit those increases to the extent it makes sense to do so, or they can continue to wait for further guidance from the courts. Employers who did nothing in anticipation of the rule change may continue to wait.

Employers should be cognizant of any views expressed by the Trump Administration as to revisions to the overtime rule. However, if the Fifth Circuit Court of Appeals reverses the trial court and concludes that the rule is lawful, President Trump would not be able to, by himself, simply repeal the new rule. Instead, his administration could: (1) propose new rules and follow the same long

process that resulted in the new overtime rule; or (2) work with Congress to make changes to the new rule.

Background Checks

Because Georgia law imposes upon employers "a duty to exercise ordinary care not to hire or retain an employee the employer knew or should have known posed a risk of harm to others," *Drury v. Harris Ventures, Inc.*, 302 Ga. App. 545, 548, 691 S.E.2d 356, 359 (2010,) a hiring library must make some level of investigative effort to screen job applicants. Questions such as whether, when, and how in-depth to make background checks of job applicants are challenging for public library administrators as the law in this area is continuing to develop.

It is well-settled law that employers may not discriminate against potential employees on the basis of race, religion, sex, and genetic information. According to 2012 guidelines issued by the Equal Employment Opportunity Commission ("EEOC"), use of criminal history of job applicants has the potential to result in unlawful discrimination. These guidelines have been criticized by several state Attorneys General, including Georgia's. Despite this criticism, the EEOC has aggressively filed enforcement actions against private employers for using criminal history as a disqualifier in the hiring process. Several large corporations, including Pepsi Co. and BMW, have reached settlements with the agency by agreeing to discontinue use of criminal background checks as an automatic disqualifier. Other private employers have vigorously fought back and in some instances, have

succeeded in defending the actions brought by the EEOC. *See EEOC v. Kaplan Higher Education Corp.*, 2011 WL 2115878; *EEOC v. Freeman*, 961 F. Supp. 2d 783, 798 (D. Md. 2013); and *EEOC v. Peoplemark, Inc.*, 732 F.3d 584, 614-15 (6th Cir. 2013). In these cases where the employers prevailed, the courts determined that the EEOC was unable to prove that the use of background checks resulted in unlawful discrimination.

One lawsuit filed by the EEOC against Dollar General has been ongoing for nearly four years. *EEOC v. DolGenCorp, LLC d/b/a Dollar Gen.*, No. 13-CV-4307, 2015 U.S. Dist. LEXIS 58994 (N.D. Ill. May 5, 2015). In that suit the EEOC contends that the use of criminal background checks disparately affects black applicants. In an interesting twist to this controversy, Dollar General sought to compel the EEOC to turn over its own policies for utilizing background checks in its hiring procedures, which the EEOC admitted it did. Ultimately the trial judge refused to compel the turnover of documents, holding that the process used by the EEOC is irrelevant to the question of whether Dollar General's hiring process resulted in discrimination. Most recently, Dollar General sought to have the suit dismissed, claiming that the EEOC did not properly notify it of the alleged wrongdoing before suit was filed. This motion was also rejected by the trial judge. Therefore, the litigation is continuing.

With the 2016 election of President Trump, there comes a strong likelihood that his appointees at the EEOC will adopt a more pro-business philosophy than

the agency under the Obama Administration. Therefore, lawsuits challenging employer use of criminal background check will probably be scarce or non-existent in the next few years.

Even if the EEOC's opposition to the use of criminal background checks dissipates as a result of the the new administration in Washington, D.C., Georgia public libraries remain subject to Governor Nathan Deal's Executive Order entered in 2015. The executive order requires government entities to implement hiring policies to:

- Prohibit use of a criminal record as automatic disqualification;
- Prevent use of an application form that inappropriately excludes qualified applicants;
- Promote accurate use and interpretation of criminal histories; and
- Provide qualified applicants an opportunity to discuss and refute contents of criminal record or to demonstrate rehabilitation.

In addition to the EEOC's efforts to curtail the use of criminal background checks, some members of Congress have sought to prohibit credit checks of potential employees. In 2015, a bill was introduced by Massachusetts Senator Elizabeth Warren to amend the Fair Credit Reporting Act to prohibit credit checks by employers. This bill did not make it out of committee.

Bathroom Laws

Due to high profile legislation passed in the Spring of 2016 in North Carolina (known as the Bathroom Bill), questions have arisen about what role public library employees must play in monitoring the gender of those using library restrooms. HB 2 (available at http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2015E2&BillID=h2. The Bathroom Bill required public entities to monitor restroom use to ensure that individuals were using the restroom matching biological gender. Additionally, the prohibited local governments from implementing any rule or regulation allowing for restroom use consistent with gender identity (as opposed to the biological sex recorded on a birth certificate).

In response to the Bathroom Bill, the United States Department of Education under the Obama Administration issued guidance for public schools nationwide directing that a student may use the restroom matching his or her gender identity despite biological sex. These Department of Education guidelines were enjoined in August 2016 by a federal court in Texas. *Texas v. United States*, No. 7:16-CV-0054 (Aug. 21, 2016, N.D. Tex.). And just over a month after his inauguration, President Trump signed an executive order revoking the guidelines related to bathroom use in public schools. As a result, states are free to make their own rules about bathroom access for transgendered individuals in public facilities.

About a dozen state legislatures have debated bills pertaining to transgender access to public restrooms in the last year. However, North Carolina is the only state to have passed a bill into law—and that law has now been partially repealed in the face of financially devastating boycotts of the state by businesses, performers, and organizations.

During Georgia's 2017 legislative session, there were discussions of creating law regulating public restrooms, but no bill was introduced. Nevertheless, employees of public libraries may receive questions or complaints from patrons about who is using which public restroom. Given the absence of law on the issue, Georgia libraries remain free to handle bathroom issues as they always have.

Notably, the American Library Association has stated its support of free access to all public library facilities by transgendered individuals. In the event that questions continue to arise or difficult situations in library restrooms occur, library administrators in conjunction with their governing boards should consider their library's position on the issue. This will enable administrators to prepare frontline employees to thoughtfully and consistently respond to the questions and issues that stem from this controversial social issue.

Guns in Public Libraries

In 2014, a Georgia law regarding where permit holders may carry firearms was amended to include: "in a government building when the government building is open for business and where ingress into such building is not restricted or screened by security personnel." O.C.G.A. § 16-11-127(e)(1). This is an affirmative right that the state has conveyed to licensed gun carriers. Since most public libraries in Georgia do not have manned security screening, a public library building falls squarely into the statute's definition of government building. Therefore, any policy or practice that prohibits guns in the public library would be in direct contravention to this law.

Along with Georgia, many other states have recently passed more expansive gun carry laws, and, as a result, firearms are being permitted in public libraries in a majority of states throughout the country. In several jurisdictions, public libraries have attempted to reclaim the right to exclude guns from the library premises. These efforts have been largely unsuccessful.

Alabama

Alabama's gun laws, similar to Georgia's, allow open carry in most public places unless specifically excluded by the law. Many public libraries in Alabama had longstanding policies that prohibited any weapons on library property. When challenged by advocates for more expansive gun rights, at least two public libraries in the state refused to remove signs warning that guns were prohibited in the

library building. In January 2017, Alabama's Attorney General issued a statement alerting the libraries that their signs were in violation of state law. The libraries were put on notice that if the signs were not removed within 60 days, the Attorney General would file suit. The Homewood Public Library capitulated and removed the signs; the Attorney General has said that no legal action will be taken against it. The Huntsville Public Library has argued that it has a right to prohibit guns because there is security in the library. There has been no resolution yet in Huntsville. Notably, the rules of conduct policy on the library website continue to prohibit weapons, including firearms, on the premises.

Missouri

Missouri joined a majority of states with its expansion of gun rights in a law that took effect on January 1, 2017. The law was controversial and ultimately came about through a legislative override of the Democratic governor's veto.

At a public library in Columbia, Missouri in February 2017, a state legislator who supported the gun rights expansion law attended a public forum with a gun in her purse. The gun was not visible, but she spoke about it in a cell phone conversation, and the conversation was overheard. Feeling uncomfortable about the presence of the weapon, the other attendee notified library staff and a verbal altercation with the gun owner occurred. Library staff pointed out signs on the premises warning that firearms are prohibited inside the building.

The following week, the state legislator who brought the gun to the library event sent a letter to the director threatening suit unless the library altered its signs. In response to the threat, the library changed the signs to state, "No person shall possess, on the library premises a weapon of any kind, unless authorized by law." The addition of "unless authorized by law" is an acknowledgment of the new state law allowing guns to be carried without a permit to public places. Soon after the signs were changed, the library board updated library policy to allow guns in the library, but at least one board member continues to lobby for legislation that includes libraries in gun-free zones.

Virginia

In an effort to circumvent a state law that allows guns in public buildings, Virginia legislators, during the 2017 session, introduced a bill that would have allowed localities to ban firearms in public libraries. The bill was opposed by gun rights advocates and did not make it to a vote of the entire legislature; it died in committee. A library director in York County, Virginia told the Virginia Gazette that usually those bringing guns into public libraries are seeking to make a political statement rather than maintain their own security. The result, according to that director is that library staff and other patrons are left feeling uncomfortable and less secure.

Nevada

Like Georgia, Nevada has a statute granting the right to openly carry firearms, but that law grants day-care centers, schools for grades K–12, and colleges and universities a legal right to ban weapons from their premises. A bill that would extend that same option to public libraries was introduced earlier this year and passed the state senate. The bill will likely reach a vote in the other legislative chamber before the end of this year's legislative session, and supporters of the bill claim to have sufficient votes for its passage. However, the bill does not have the support of the state's Republican governor, and he has the power to veto it.

Recent Lawsuits Filed Against Public Libraries

Keeping abreast of lawsuits filed against public libraries in any jurisdiction is an excellent way to anticipate problems that could occur in your library. Reviewing legal claims made against a library as well as the defensive responses of library administrators, and particularly how courts weigh the competing positions is a useful exercise in policy development and strategic planning for librarians and trustees alike. Below are synopses of recent cases involving public libraries or their employees from the State of Georgia and in other areas of the country.

Proper Naming of a Library System as a Defendant in a Lawsuit

In a suit alleging employment discrimination, a former library worker sued the Thomas County (Georgia) Public Library System. *Moore v. Thomas County Public Library System*, No. 7:16-CV-28(HL), 2016 WL 3212090 (M.D. Ga. June 9, 2016). The former employee alleged that he had been discriminated against during his employment on the basis of race and a disability. He also contended that he had been retaliated against for exercising his right to medical leave. The library responded to the complaint via a motion to dismiss; the library claimed that the Thomas County Public Library System is not an entity capable of being sued.

The United States District Court for the Middle District of Georgia agreed with the library and held that because the statute allowing for the creation of public libraries, O.C.G.A. § 20-5-40, did not expressly address the right of a county library to sue or be sued, naming the library system as a defendant is a nullity. While the

library prevailed on its motion to dismiss, the case has continued, however. The court allowed the plaintiff to amend his pleadings to name a proper defendant. The plaintiff did so, naming Thomas County as the defendant. Discovery in the case is now ongoing, and dispositive motions are due in July 2017.

The lesson to be learned from the *Thomas County* case is that public library systems in Georgia are not capable of being sued, and any complaint naming the library system is subject to dismissal. While courts may allow a plaintiff another bite at the apple in naming a new defendant, this defense could be valuable to a library in litigation.

Frivolous Claims against a Public Library

In January 2016, a pro se plaintiff filed a handwritten complaint against the Augusta Richmond County (Georgia) Public Library System. *West v. Augusta Richmond County Public Library System*, No. 1:16-CV-0008-JRH-BKE (Jan. 26, 2016, S.D. Ga). The plaintiff alleged that library staff members had used witchcraft to add homosexual males as friends on his Facebook account. As relief, the patron requested that the court remove all use of internet service from the public library.

Because the plaintiff was not represented by counsel and because he obtained a waiver of the court's filing fee due to financial circumstances, his claims were subject to a frivolity screening pursuant to 28 U.S.C. § 1915(e)(2). The purpose of this statute is to protect innocent parties from expending significant resources in responding to frivolous claims. After reviewing the plaintiff's complaint, the court

determined that it contained no viable claims for relief under the law. Rather, the pleading was filled with nebulous and conclusory statements about fraud and witchcraft, according to the court. Therefore, the complaint was dismissed as frivolous.

Because the complaint was dismissed at this early stage of the litigation, the public library was never served and did not have to undertake the expense of responding to the complaint and further litigating the case. It is possible that library administrators and board members were unaware that the suit was even filed.

Banning a Patron for Bad Behavior

In the District Court for the District of South Carolina, a patron who was banned from the public library after a number of run-ins with library staff sued alleging civil rights violations and violations under the Americans with Disabilities Act ("ADA"). *Grant-Davis v. Bd. of Trustees of Charleston Co. Public Library*, No. 2:15-CV-2676 (D. S.C. 2016). In South Carolina, there is a state statute providing for trespass notice procedures in public libraries. The public library director utilized that process to serve a trespass notice on the plaintiff. Five days later, the plaintiff filed a written appeal with the Board of Trustees. At a hearing of the appeal, the plaintiff was allowed to make a three-minute statement to the library board. The board voted unanimously to uphold the trespass notice.

In response to the plaintiff's lawsuit, the library moved to dismiss his claims for failure to state a claim. *See* Federal Rule of Civil Procedure 12(b)(6). In analyzing the library's motion to dismiss, the court, as it is required to do under the law, construed all facts alleged by the plaintiff to be true. The plaintiff asserted in his complaint that he always behaved appropriately in the library and that the reason library staff members sought to exclude him was due to his mental disability. The court concluded that if the plaintiff could prove his assertions, he would state viable claims for relief. Therefore, the court denied the library's motion to dismiss and required the library to file an answer to the complaint. The parties then engaged in discovery including a lengthy dispute about any library security video that recorded interactions with the plaintiff and library staff.

The library has filed a motion for summary judgment, and it has been opposed by the plaintiff. Before ruling on the motion, the court is requiring the parties to participate in mediation before July 31, 2017.

This case demonstrates that even if the library wins the lawsuit on the merits and the court or a jury concludes that the library appropriately banned the patron from entry into the library, the ensuing litigation is expensive and time consuming. Therefore, any decision to prohibit access to the public library should be made only with careful deliberation and consideration of lesser sanctions.

Assault and Arrest of Library Worker Intervening on Behalf of a Patron

A librarian in Kansas City Missouri is facing a criminal suit after he attempted to come to the aid of a library patron who asked an unpopular question during a library speaker event. Local activist Jeremy Rothe-Kushel asked a question of the speaker, former Bush Administration official Dennis Ross, in which Rothe-Kushel insinuated that Israel was behind the 9/11 attacks on the United States. He was immediately grabbed by private security and an off-duty police officer and forcibly removed from the library auditorium. Steve Woolfolk, the Kansas City Public Library director of public programming, sought to intervene, asking that that the patron be allowed to leave voluntarily. The off-duty and out-of-uniform officer proceeded to assault Woolfolk by throwing him against a pillar; an officer in uniform joined the melee and landed several blows on Woolfolk's knee resulting in injury. Woolfolk was arrested and taken into the custody.

Rothe-Kushel was charged with trespassing and resisting arrest, and Woolfolk was charged with interfering with that arrest. The criminal charges are still pending. Both Rothe-Kushel and Woolfolk declined the offered plea deals.

In light of the longstanding commitment to free speech by members of the library profession, these incidents have garnered a lot of attention. The American Library Association ("ALA") published a webinar on the topic which includes a video of the assault by police on the librarian. That webinar may be viewed for free at the following link:

http://programminglibrarian.org/learn/what-happened-kansas-city-free-speech-library programs-and-law. ALA encourages everyone to watch and share widely.

Questions from Georgia Library Directors

Filling Unexpired Trustee Terms

When an appointed trustee is unable or unwilling to complete his or her term, often another individual is willing to step in and complete the unexpired term. In this event, a question arises as to whether the fill-in trustee serves for only the time remaining on the departing trustee's term or whether a new term begins with the newly appointed board member. Georgia's laws pertaining to the creation of public library boards is not specific on this point. Therefore, how to handle unexpired terms is up to individual library boards. But, the law does require that trustee terms be staggered. O.C.G.A. § 20-5-42(c). Therefore, in order to maintain the required staggering of terms, best practices would call for the terms to be static and in the event a board member steps down or is removed prior to the end of a term, the new trustee would serve no longer than the remainder of the original term.

Trustee Voting by Proxy

In the event that a public library trustee cannot attend a library board meeting, he or she may ask to vote on board business via proxy. Georgia's law setting forth the duties and responsibilities of library board members requires that trustees attend board meetings. O.C.G.A. § 20-5-43(3). The law is does not address whether a board member who is absent from a meeting can use a proxy to vote on matters that come before the board during the meeting. Therefore, whether proxy

voting will be allowed is a matter of policy to be decided by individual library boards. In the event that a library board opts to allow proxy voting, the precise procedure for doing so should be detailed in the bylaws. As set forth above, Georgia law does require board members to attend meetings; the statute does not state that a trustee must attend all board meetings. But, O.C.G.A. § 20-5-42(d) does provided that a board member will be removed "for failure to attend three consecutive meetings." Therefore, any provision for proxy voting should reference the consequences of missing three consecutive meetings.

Registered Sex Offenders in the Public Library

Georgia has a statute prohibiting a convicted sex offender from loitering at any child care facility, school, or area where minors congregate. O.C.G.A. § 42-1-15(e). A public library has been defined by Georgia law as "a place where minors congregate." O.C.G.A. § 42-1-12(a)(3). Thus, librarians in Georgia have been asked whether the presence of a registered sex offender in a public library is unlawful.

Under the plain language of O.C.G.A. § 42-1-15(e), the mere presence of a registered sex offender inside a public library is not unlawful. Rather, the law prohibits loitering by a registered sex offender. Loitering is defined as being in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. O.C.G.A. § 16-36-11.

In the 2017 legislative session, the Georgia General Assembly enacted Senate Bill 250, which amended the sex offender statute. Available at http://www.legis.ga.gov/Legislation/en-US/display/20172018/SB/250. While at least one lawmaker indicated that this amendment would keep registered sex offenders out of public libraries in Georgia, the only subsection that was modified pertains to "loitering" where minors congregate. It appears that the sole purpose of the amendment is to include offenders who are required to register in other states or countries. Therefore, this amendment does not add public libraries to the list of places where a registered sex offender can "be." Of course, conduct by any person, whether a registered offender or not, that causes concern for safety of library patrons and staff should be addressed immediately—and with the assistance of law enforcement personnel if necessary.

Food Allergies

According to Food Allergy Research and Education, a non-profit formed in 2012, up to 15 million Americans have food allergies, including 5.9 million children under age 18. The CDC reports that between 1997 and 2008, the prevalence of peanut or tree nut allergy appears to have more than tripled in U.S. children. Given that public libraries serve a large childhood population, a recent suggestion to remove peanuts from a Georgia library's vending machine by a parent of a child with severe nut allergies is unsurprising.

The relevant law for analyzing what a public library's obligations are with respect to safeguarding individuals with food allergies is the ADA. Title II of the ADA prohibits public providers of programs and services from (a) discriminating against "a qualified individual" with a "disability" and (b) excluding such individual from participation in or denial of the benefits of services, programs, or activities. 42 U.S.C. § 12131 et seq. Therefore, a public library would have an obligation to take steps ensure that a person with food allergies is able to safely utilize the library's programs and services only if a food allergy is a "disability" under the ADA.

By interpreting the ADA narrowly, courts, prior to 2009, consistently refused to grant disability status to those with food allergies even in cases where the allergies were severe. *See, e.g., Land v. Baptist Med. Ctr.*, 164 F.3d 423, 424-25 (8th Cir. 1999). However, effective January 1, 2009, the ADA was amended to expand the definition of a disability. ADA Amendments Act of 2008, Pub. L. No. 110-325, § 2(a)(4), 122 Stat. 3553 (noting that court decisions had "narrowed the broad scope of protection intended to be afforded by the ADA"). While the new law did not expressly state that a food allergy is a disability, courts interpreting the amendments have concluded that a food allergy could be a disability under the ADA.

In a significant case litigated under the 2009 amendments to the ADA, the U.S. Department of Justice announced in January 2013 that it had reached a settlement with Lesley University, a private Massachusetts university of 6,000

students. Settlement Agreement between the United States of America and Lesley University (Jan. 25, 2013), available at http://www.ada.gov/lesley_university_sa.htm. The settlement required the school to accommodate students with food allergies and celiac disease in the university's mandatory meal program. In a supplement intended to provide answers concerning the implications of the agreement, the Justice Department stated ,"Some individuals with food allergies have a disability as defined by the ADA, particularly those with more significant or severe responses to certain foods." While the supplement also explained that the "ADA does not require every place of public accommodation that serves food to the public" to provide accommodations for individuals with food allergies, the Justice Department's view that schools must accommodate students with food allergies or face charges of ADA violations was made clear.

In an Iowa case decided a few days later, a state appellate court reiterated the Justice Department's new stance on food allergy as a disability under the ADA Amendments Act. *Knudsen v. Tiger Tots Cmty. Child Care Ctr.*, No. 12-0700, 828 N.W.2d 327 (unpublished table decision), 2013 WL 85798 (Iowa Ct. App. Jan. 9, 2013). In *Knudsen*, a mother sued when her daughter was denied enrollment in a childcare center due to the girl's allergy to tree nuts. The court said that the ADA Amendments Act provided the "framework for an analysis of 'disability' under [Iowa] state law" and that the rules of construction under the ADA Amendments Acts clearly included episodic impairments like food allergies.

The amendments to the ADA and the outcomes of the two cases relying on those amendments make it clear that disability-discrimination claims brought by individuals with severe food allergies under the ADA must be taken seriously. When a public library is faced with a request for an accommodation related to a food allergy—in the example used here the request was for removal of peanuts from a library vending machine—the library must determine whether to afford the accommodation in the same manner it addresses other requests for accommodations such allowing entry to a service animal or the provision of auxiliary aids and services such as readers, taped texts, and Braille materials.

In the event a public library decides to accommodate a food allergic patron, questions will arise as to how far the library must go in ensuring its premises are safe for the allergic individual. For example, will library staff be required to prohibit other patrons from bringing in food items that may be detrimental to others? And is the library responsible for ensuring that all foods it provides in vending machines be free of ingredients that may trigger allergies? The ADA's "reasonable modification" principle does not require a public entity to employ any and all means to make services accessible to persons with disabilities but only to make "reasonable modifications" that would not fundamentally alter the nature of the service or activity of the public entity or impose an undue burden. *Tennessee v. Lane*, 541 U.S. 509, 531-32, 124 S.Ct. 1978, 1993-94, 158 L.Ed.2d 820 (2004) ("Title II does not require States to employ any and all means to make judicial services

accessible to persons with disabilities. . . . It requires only 'reasonable modifications' that would not fundamentally alter the nature of the service provided . . . [or] impose an undue financial or administrative burden."). Furthermore, a public library does not become a guarantor of safety by providing an ADA accommodation; the efforts to create a safe environment for a food allergic patron to utilize the programs and services of the public library must be reasonable and done in good faith.

Conclusion

Laws and regulations are not static; legislation is amended, new rules are enacted, and court interpretations evolve over time. Thus, it is important for library administrators to remain current on the status of various areas of law that affect public libraries. Periodic reviews of lawsuits involving libraries, discussions of legal questions raised by colleagues in other jurisdictions, and revisiting specific laws and court cases to determine if new developments have occurred are excellent methods of staying up to date on pertinent topics of "library law."