

Fee or Free: Can We Charge for That?

Although fees-for-service may be a popular approach to stem the rising costs of municipal services public libraries generally are not permitted to charge fees. For over 130 years, Wisconsin law has required that public library services be free of charges.

Stagnant or reduced municipal appropriations may require library trustees and staff to make difficult decisions about the depth and range of library services. Fees-for-services under these circumstances can be tempting. But service fees contradict the very notion of free library service, so fundamental to public libraries in Wisconsin. In addition, fees can create barriers to service and can reduce the value of the public library to the community. Once started, a spiral of budget reductions and escalating fees may be unavoidable. Public library services promote the public good and therefore deserve adequate and stable public funding.

Can a public library charge fees for specific services?

The issue of fees for particular services was initially reviewed by the Wisconsin Attorney General in 1984 (73 Op. Att’y Gen. 86). The opinion relied on a test formulated by the California Attorney General (61 Op. Att’y Gen. 512 California 1978) which distinguished between “those services which are reflective of a library’s inherent information providing function and those ancillary services which are not unique to libraries and which can be just as effectively provided in non-library settings” The Wisconsin Attorney General concluded that framed pictures, projectors, screens, audio cassette players, AM/FM radios and meeting and lecture rooms could be subject to charges, but that charges for borrowing 16 mm films and for holding materials on reserve are prohibited. Charges for inter-library loan services are similarly prohibited.

The Attorney General did, however, opine that rental collections, under certain conditions, can be established and fees collected for their use, if the library “acquires a reasonable number of copies ...and allows these copies to circulate free of charge.”

In 1989 the Attorney General further clarified and expanded that opinion to establish that public libraries cannot charge fees for lending video cassettes that are part of a reasonable permanent collection, but may charge for additional copies. That opinion also established that municipal libraries cannot charge for online searching of bibliographic or informational databases. (78 Att’y Gen. 163).

Similarly, public library cannot charge for the use of its computers, since this falls within the inherent information providing function of the library. Furthermore, the Federal e-rate program and the State TEACH program that fund much of the Internet access at Wisconsin libraries prohibit charges for service on these subsidized lines.

While fees for particular types of materials may be subject to interpretation based on the earlier Wisconsin Attorney General opinions, the following suggested guidelines may help you better understand the parameters for fees:

Type of Material or Service	Okay to charge?
Loan of audio cassette or DVD players	Yes
Loan of MP3 or e-book players	Yes unless loaded with audio content
Loan of cameras	Yes
Loan of computers for home use	Yes
Loan of framed artwork	Yes
Loan of best-sellers	No, except duplicate copies*
Loan of videos, audio books, or DVDs	No, except duplicates*
Loan of equipment (radios, TVs, VCRs, slide projectors, video projectors)	Yes
Loan of computer game systems	Yes
Loan of software or video games	No, except duplicates*
Computers for in-library use	No
Internet connection to a patron's own computer, either physical or wireless	No
Parking	Yes
Inter-Library Loan	No
Fee for reserving or holding library items	No
Fine for lapsed hold (patron does not pick up ILL or reserve)	Yes†
Library fines	Yes†
Damage charges	Yes†
Replacement library cards	Yes†
Toys, games, puzzles, puppets	Probably not‡
Meeting and lecture rooms	Yes

* Only if the library circulates a "reasonable number" of free copies.

† Under 43.52(2) the library may have "such reasonable regulations as the library board prescribes in order to render its use most beneficial to the greatest number. The library board may exclude from the use of the public library all persons who willfully violate such regulations."

‡ These may be interpreted as having education value or otherwise be "reflective of a library's inherent information providing function." 73 Op. Att'y Gen 86

Can a public library charge an annual or periodic fee for a library card?

Although Wisconsin public libraries may charge a fee to residents of other states, fees for borrowing privileges may be charged to Wisconsin residents only under very specific circumstances. Generally, “membership” fees are not permitted since s. 43.52(2) of the Wisconsin Statutes requires that public library services shall be provided free of charge to residents of the community. And, in order to participate in a library system, a library must extend the same privileges to residents of the system area. s. 43.15(4)(c)4. Libraries must also honor the valid borrowers’ cards of a public library in an adjacent public library system, other than the Milwaukee County Federated Library System, except under the following circumstances. s. 43.17(10)

Since public library systems are encouraged to establish service agreements with other systems, user fees for residents of non-contiguous library systems may be precluded. A general service fee for Wisconsin residents can be justified only under very specific circumstances. A public library may be able to “refuse to honor valid borrowers’ cards of a public library in an adjacent public library system if the total amount of the reimbursement received...for the preceding year...is less than the adjusted cost incurred for that year by the public library in honoring these cards.” s. 43.17(11)(b). Please note that “adjusted cost” subtracts 500 circulations from the total used in the cost formula; therefore, that incidental use by residents of other library systems must be absorbed by the library.

The statutory requirement that public library service be provided free of charge ensures that everyone can have the benefit of access to the information and ideas essential to individual and societal well-being.

Additional questions can be directed to your library system staff, or to John DeBacher, DPI, at (608) 266-7270, or send e-mail to john.debacher@dpi.state.wi.us