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Review of The Library's Legal Answer Book

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THE LIBRARY'S LEGAL ANSWER BOOK. Mary Minow and Tomas A. Lipinski.
Chicago: American Library Association, 2003, 361 pp., ISBN 0-8389-0828-4.

“Issue-spotting” is an important component of an attorney’s work. The attorney looks at a set of facts and identifies the legal issues lurking there. Does the license agreement allow the contemplated distributions? Is the personnel policy consistent with anti-discrimination statutes? Has the attorney’s client unwittingly taken on responsibilities that may result in a lawsuit?

For the attorney, spotting the issues is the first step, followed by legal research, re-drafting of documents, and (in some cases) argument. But for a librarian – and for library managers in particular – some skill in issue-spotting is a worthwhile end in itself. Having acquired a basic familiarity with the legal concepts most frequently encountered in a library setting, librarians can ask themselves the questions that will lead to improved policies and administration. In addition, librarians can use their augmented legal knowledge to develop a more effective working relationship with the library’s attorney. (The idea is not to supplant the institution’s attorney, but rather to better understand the issues and to know when a call to the attorney would be prudent.)

The authors of The Library’s Legal Answer Book have collected 333 questions (not “more than 600” as stated on the back cover) that might trouble a library manager’s sleep, and have logically arranged them – with answers – in nine chapters with headings like “Filters and Other Restrictions on Internet Access,” “Library Records and Privacy,” and “Issues in Library Employment.” The answers, which range from a single sentence to a few pages in length, are not always as straightforward as one might wish. The very first question in Chapter One, for example, elicits that cherished response of lawyers

everywhere: “It depends.” But the authors are not to blame for the uncertainties and inconsistencies of the law, which sometimes seems like a bottomless pit of sliding scales, balancing tests, and exemptions to exceptions to exclusions. Lawyers and librarians themselves, authors Minow and Lipinski strive to explain the pertinent legal concepts with a minimum of jargon: they present case studies, define legal terms, survey the different laws of the various states, cite helpful web sites, and summarize court opinions and statutes. At times, they offer warnings and practical advice, e.g., “Be careful when signing license agreements,” “The library should inform the [bearer of a subpoena] that it cannot comply without consulting an attorney.” And, where possible, they even provide a simple answer to a simple question.

After an opening note on sovereign immunity, the authors launch into a 70-page discussion of copyright, “the most important issue that libraries confront.” Most librarians have covered this ground before, but copyright has some knotty aspects and a refresher is not unwise. In this and other chapters, Minow and Lipinski include recent legislation and court decisions, while conceding that the law will continue to evolve, possibly moving in directions that were not anticipated at the time of publication. For those readers who are interested in following pending cases through to resolution and beyond, the authors have provided citations and other helpful notes at the end of each chapter.

The book moves on to “Designing the Library Web Page” (with discussions of deep linking and trademark infringement) and then to other chapters on accommodating patrons with disabilities, friends organizations (with a dissection of tax-exempt status under section 501(c)(3)), and other topics, all in the same, undaunting question and

answer format. Librarian “malpractice” is addressed as well, with an overview of negligence law principles. The authors even devote a few pages to the liabilities that might arise from writing book reviews.

All in all, The Library’s Legal Answer Book is a worthy addition to the librarian’s bookshelf. It need not be read cover to cover – each section stands on its own, for quick reference, and the index in the back of the book is well done. Ideally, though, an oft-consulted reference like this one would come with a sturdier binding; my review copy was splitting down the middle after one reading.