




Interlocal Agreements




Indiana State Library

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Our schedule for today

- Interstate Compact Agreements (Ind. Code 36-12-13) 
- Contracts for Library Service (Ind. Code 36-12-3-7 and 36-12-3-8) 
- Other interlocal agreements (Ind. Code 36-1-7) 
- Drafting Recommendations
- Common Contract Clauses and Provisions
- Example Interlocal Agreement
- Questions

Which agreement is right for me?

- Interstate Compact Agreements 
 - Any agency outside the State of Indiana.
- Contracts for Library Service 
 - Between a library and another public library, township, or municipal corporation for the receipt of library services.
- Interlocal Agreements 
 - Between public institutions

Interstate Compact Agreements

Ind. Code 36-12-13

- Required for Indiana libraries cooperating with non-Indiana libraries.
- Typically used for the purpose of issuing library cards.
- The Indiana State Library has a template for these agreements.



Interstate Compact Agreements

Legal Requirements

Ind. Code 36-12-13-4 states that an interstate library compact agreement must:

- (1) detail the specific nature of the services, facilities, properties, or personnel to which the compact is applicable;
- (2) provide for the allocation of costs and other financial responsibilities;
- (3) specify the respective rights, duties, obligations, and liabilities; and
- (4) stipulate the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters that may be appropriate to the proper effectuation and performance of the agreement.

Interstate Compact Agreements

Working with the State Library

- The Indiana State Library has a template for interstate compact agreements, and can help navigate the process of forming and entering into a interstate compact agreement.
- Interstate compact agreements require a compact administrator at the state level. The statute makes the Director of the Indiana State Library the compact administrator for interstate compact agreements.
- Interstate compact agreements must include all of the provisions under Ind. Code 36-12-13-4. Review the code for any changes before beginning the process of forming an interstate compact agreement.

Contracts for Library Service

Ind. Code 36-12-3-7 and 36-12-3-8

- Allow libraries to provide library cards to the residents of unserved townships.
- Allow public libraries to provide service to other public libraries.
- There are 98 service areas in Indiana that are currently served or partially served based on these types of contract.



Contracts for Library Service

Legal Requirement

Ind. Code 36-12-3-7(b) requires that a contract for library service between a public library and another municipal corporation must outline:

- (1) The manner and extent of library service.
- (2) The amount of compensation for the extension of library service.

Ind. Code 36-12-3-7(c)

- (1) levy a tax sufficient to meet the amount of compensation agreed upon under the contract; and
- (2) expend all funds received under a contract for library services chargeable to the contract.

Ind. Code 36-12-3-8(b):

- (1) levy a tax sufficient to meet the amount of compensation agreed on under the contract; or
- (2) make the contract payments with revenue derived from a tax being imposed before the contract is approved by the municipal corporation, including the part of local income tax revenue that is not required to be dedicated to providing property tax relief.

Other interlocal agreements

Ind. Code 36-1-7



- Partnerships with local school corporations.
- Partnerships with municipalities.

Other interlocal agreements

Legal Requirements

Per Ind. Code 36-1-7-3(a) an interlocal agreement must include:

- (1) Its duration.
- (2) Its purpose.
- (3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.
- (4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.
- (5) Administration through:
 - (A) a separate legal entity, the nature, organization, composition, and powers of which must be provided; or
 - (B) a joint board composed of representatives of the entities that are parties to the agreement, and on which all parties to the agreement must be represented.
- (6) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking, whenever a joint board is created under subdivision (5)(B).

In addition, such an agreement may provide for any other appropriate matters.

Other interlocal agreements

IC 36-1-7-12 and IC 36-1-7-16

IC 36-1-7-12 governs the purchase, sale, or exchange of services, supplies, or equipment.

IC 36-1-7-16 governs the transfer, combination, or sharing of powers, duties, functions, or resources, particularly in the area of budgets, rates, and levies.

Drafting Recommendations

- Review the applicable law for changes or updates before drafting.
- Really think the agreement through.
 - Are there any provisions that are not required but are appropriate?
 - Who is responsible for what? Is that clear?
 - What happens if something goes wrong?
- Be as clear, concise, and consistent.
- Pay attention to grammar, punctuation, and formatting.
- Define important terms and parties.
- Have your document reviewed by your legal counsel.

Common Contract Provisions and Clauses

- Assignment
- Approval and Filing
- Conflicts of Interest
- Force Majeure
- Limitation of Liability
- Merger & Modification
- Notice to Parties
- Ownership of Documents/Materials
- Renewal
- Severability
- Payments
- Waiver of Rights

Interlocal Agreement Example: Title and Introduction

**Interlocal Agreement
between the
Public Library
and the
School Corporation**

This Interlocal Agreement (hereafter, the "Agreement") is made and entered into by and between the Public Library (hereafter, "PL") and the School Corporation (hereafter, "SC"), both of which are political subdivisions located in █████ County, Indiana.

WITNESSETH:

WHEREAS, Indiana Code 36-1-7 et. seq. permits political subdivisions to enter into agreements fostering interlocal cooperation between governmental entities;

WHEREAS, PL and the SC wish to enter into such an agreement to facilitate the implementation of an PL branch library (hereafter, "Branch Library") to be incorporated into the Jr/Sr High School (hereafter, "HS"); and

WHEREAS, incorporating the Branch Library into the HS will assist the SC and the PL in meeting the literacy needs of the █████ community and █████ County generally; and

WHEREAS, the terms of this Agreement address the required terms for interlocal agreements as required under Indiana Code Section 36-1-7-3.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereto agree as follows:

- The title should clearly identify the agreement.
- Contracts should use standard English, avoiding jargon.
- The goal is to be clear and concise.

Agreement Example: Duration and Purpose

- Term and duration are required under 36-1-7-3(a).
- Also required:
 - Manner of financing, staffing, and supplying.
 - Methods of partial or complete termination.
 - Method of administration.
 - Manner of managing joint property.

1. TERM/DURATION

This agreement is effective upon recordation with the office of the [REDACTED] County Recorder. The term of this agreement is five (5) years with the option to renew for subsequent five (5) year periods upon written agreement of the parties.

2. PURPOSE

The purpose of this agreement is to facilitate more efficient library service to individuals who reside in the [REDACTED] County community and to improve the community by improving and increasing literacy.

Agreement Example: Administration

3. JOINT INTERLOCAL ADVISORY BOARD

- A. The administration of this Agreement shall be overseen by a Joint Interlocal Advisory Board (hereafter, "JIAB"). The purpose of the JIAB is to be a mechanism that ties all the interested parties together, resolves conflict, provides representation of each party, and promotes communication between all parties involved.
- B. The membership of the JIAB shall consist of six (6) voting and three (3) non-voting ex-officio members:
 - i. two (2) members designated by the PL board;
 - ii. two (2) members from the Local Literacy Council. These members will be approved jointly by the PL board and the SC board. These positions will have a two (2) year term and may not exceed six (6) years consecutively;
 - iii. two (2) members designated by the SC school board;
 - iv. the Principal of the HS, who shall be ex-officio non-voting;
 - v. the HS School Media Specialist, who shall be ex-officio non-voting; and
 - vi. the director of the PL, who shall be ex-officio non-voting.
- C. The duties of the JIAB shall consist of the following:
 - i. develop and recommend to the PL and the HS policies and procedures necessary in carrying out this Agreement;
 - ii. identify the most effective ways to make use of unrestricted monetary gifts; and
 - iii. identify and recommend to the PL and the HS resolutions to all issues impacting the successful implementation of this Agreement.
- D. The JIAB shall not have the authority to bind either PL or the SC without approval of the respective governing bodies of the entities.
- E. All duties not specifically delegated to the JIAB by this Agreement shall be retained by the respective governing bodies of the PL and the SC.

- Two options for administration:
 - Through a separate legal entity that must be detailed.
 - Through a joint board composed of representatives of the party that must be detailed.
- Only powers delegated may be exercised!

Agreement Example:

- Financing, Staffing, and Supplying
- Managing Property

4. FINANCING, STAFFING, SUPPLIES & PROPERTY

A. Property and Equipment: The SC shall provide to PL space inside the HS to be used as the Branch Library. The PL will be allowed to connect to the HS phone and internet lines so that the Branch Library can be equipped with a dedicated phone line, dedicated fax line, and so that patron computers have access to the internet. The PL will provide its own phone, fax machine, and copier/scanner. The SC will provide desks, tables, chairs, and public access computers, and will make designated bathrooms available for use by PL staff and patrons.

B. Ownership and Use of Supplies and Equipment: Ownership of all library materials, equipment, and furnishings provided or purchased by the PL shall be retained by the PL and shall be identified as such. Ownership of all library materials, equipment, and furnishings provided or purchased by the SC shall be

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retained by the SC and shall be identified as such. All library materials, equipment, and furnishings shall be available for use by the public, the students, and school personnel. Public use of certain equipment owned by the SC may be restricted when it is in use by students and school personnel.

i. Both the PL and the SC will provide library materials which may include but is not limited to, books, DVD's, and CD's. The PL will provide a reasonable balance of used and new materials to be used in the Branch Library.

ii. The SC shall be responsible for the purchase of all materials selected by HS and the PL shall be responsible for the purchase of all materials selected by the PL. The SC and the PL may jointly purchase some library materials, software, software licenses, and internet access if mutually agreed to by the parties. The SC and the PL shall mutually agree on how costs for any such purchases are to be allocated or recovered.

C. Operation: The PL will be responsible for inspecting the Branch Library annually and for the day to day management and operation of the Branch Library. The PL shall operate the Branch Library in the same manner as any other branch library. However, in the event site specific policies need to be enacted, the JIAB shall make recommendations and the boards of the SC and PL may jointly approve of any such policies.

i. Initially, the library will be open during non-school hours. However, at the recommendation of the JIAB and the approval of the PL and SC boards, the hours the Branch Library is made available to the public may change to include additional day, evening, weekend, or summer hours. At no point in time will the library be open less than twenty (20) hours per week.

ii. The Branch Library will offer interlibrary loan services and there will be couriered deliveries of library materials between the HS Branch Library and the Shelbyville branch library within forty-eight (48) hours of request. Upon implementation of this Agreement, there will no longer be Bookmobile service provided to the Morristown community.

D. Financing: The SC will pay for the electricity, heat, water, and internet costs needed for the Branch Library, as well as the maintenance and cleaning costs for the interior and exterior grounds, including the bathrooms. However, the PL will pay for its own expenses related to a separate phone/fax line and copier/scanner servicing. Other expenses related to the operation of the Branch Library will be budgeted and expended by the PL or will be provided for as otherwise indicated in this Agreement. The PL will collect and retain money from fines/overdue materials, copy charges, and faxing/scanning services.

E. Staffing: The SC shall provide a school library media specialist and will provide other such staff as necessary to perform the school library media center mission of the combined Branch Library. The PL will provide at least one certified librarian

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to staff the Branch Library but may provide additional staff as needed. The SC shall provide the Branch Library with access to basic IT services. The PL will be responsible for providing the overall supervision, salaries, training, and benefits for PL staff and Branch Library volunteers as warranted. The SC remains responsible for providing the overall supervision, salaries, and benefits to its staff.

F. Expansion/Renovation: Should the library need to be expanded or renovated at the HS, the parties shall mutually agree on how costs are to be allocated or recovered. As stipulated elsewhere within this agreement, neither party can impose costs for renovations or expansion without the consent of the other party.

G. Gifts: The PL and the SC acknowledge that gifts may be made by third parties specifically for the use and benefit of the Branch Library.

i. In the event such gifts are of a monetary nature and are donated specifically for the use of the Branch Library, the funds shall be used as intended by the donor. In the event the donor does not designate a specific purpose for the funds or otherwise specify how such funds should be used, the JIAB may recommend to the PL how the funds may be used.

ii. In the event materials are provided on the contingency that such materials will be returned to the donor in the event the Branch Library ever closes, the parties will honor such a request to the fullest extent practicable.

iii. Use of gifts made to the PL that are not designated for the Branch Library will be determined solely by the PL board and use of gifts made to the SC that are not designated for the Branch Library will be determined solely by SC officials.

Agreement Example: Termination

- IC 36-1-7-3(a) requires:
 - Duration
 - Purpose
 - Manner of financing, staffing, supplying, and budgeting the joint undertaking
 - Methods of termination and disposition of property
 - Administration
 - Manner of managing property

5. TERMINATION & DISPOSITION OF PROPERTY UPON TERMINATION

- A. This Agreement may be terminated in whole or in part in writing by the PL or the SC for any reason, provided that the other party is given ninety (90) days written notice of intent to terminate. If termination for convenience is effected by either the PL or SC, the PL shall be provided an additional ninety (90) days to complete the process of removing all of its personal property.
- B. Upon the termination of this Agreement either under this section or due to expiration of the Agreement under Section 1, the JIAB shall dispose of any and all personal or real property acquired by the Branch Library in furtherance of this Agreement. The party which contributed any real or personal property, if any, in furtherance of carrying out this Agreement shall have the right of first refusal to retake said real or personal property at the termination of this Agreement. Any materials provided on loan to the Branch Library will be returned to the rightful owner. Materials purchased with donated funds, and materials and equipment donated with no right of first refusal to retake said property, shall be distributed

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between the PL and the SC according to the recommendations of the JIAB. Items donated to the [REDACTED] High School Library will become property of SC.

Agreement Example: Notice and Miscellaneous Provisions

6. NOTICE

Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses, unless otherwise specifically advised.

- A. Notices to the Public Library (PL) shall be sent to:

Director
Public Library
Street
County, IN Zip

- B. Notices to the School Corporation shall be sent to:

School Board President
School Corporation
Street
County, IN Zip

and

Principal
High School
Street
County, IN Zip

7. MISCELLANEOUS PROVISIONS

Existing Responsibilities: Nothing in this Agreement shall be construed to supersede, alter, or impair the duties, rights, and responsibilities each party has under Indiana state law with respect to providing school or library services to Morristown residents.

Non-Discrimination: Pursuant to Indiana Code §22-9-1-10, the PL and the SC, and all approved contractors and sub-contractors shall not discriminate against any employees or applicants for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment, because of race, religion, color, age, sex, creed, handicap, national origin, ancestry, disabled veteran status. Breach of this covenant may be regarded as a material breach of the Agreement.

Severability: The provisions of this Agreement are to be deemed severable, and the invalidity or unenforceability of any provision shall not affect or impair the remaining provisions which shall continue in full force and effect. In substitution for any provision

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held unlawful, there may be substituted a provision of similar import reflecting the original intent of the parties hereto to the extent permissible under law.

Assignment: Neither party may assign or delegate this Agreement without the prior written consent of the other party.

Agreement Example: Miscellaneous Provisions

Ownership of materials: Nothing in this Agreement shall be construed to express or imply that either party has any ownership rights to the personal or real property of the other party. This includes but is not limited to the library collection materials.

Waiver of Rights: The failure of either library to insist upon strict performance of any of the terms or conditions of this Agreement, or to exercise any rights or remedies, shall not be construed as a waiver of rights to assert any of the same or to rely on any such terms at any time thereafter.

Merger & Modification: This document constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be amended only by a writing signed by all necessary parties.

Force Majeure: Neither party shall be responsible for delays or failures in performance resulting from occurrences beyond the control of the affected party. Such occurrences shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after the date of this Agreement, fire, communication line failures, power failures, earthquakes or other disasters.

Approval & Filing: This Agreement shall be reviewed and approved by each party's board of trustees. Within thirty (30) days after the approval and execution of this Agreement by the each party's board, the PL agrees to submit a copy of the completely executed Agreement to the Indiana State Library, Indiana State Board of Accounts, and shall have it recorded in Shelby County, Indiana as required by IC 36-1-7-6.

Supplemental Documents: The PL and the SC agree to execute any and all supplementary documents and to take any and all supplementary steps as are reasonable and appropriate to accomplish the purposes and provisions of this Agreement.

Limitation of liability: Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. To the extent permitted by law, neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party regardless of where the injury or damage occurs.

The PL and the SC shall each be responsible for providing all necessary unemployment, workers' compensation and liability insurance for each party's respective employees.

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The PL acknowledges that the SC shall not be liable to the PL, or to any party, for completion of, or the failure to complete, any activities which are an obligation of the PL to perform pursuant to this Agreement in regard to the duties herein described.

The SC acknowledges that PL shall not be liable to SC, or to any party, for completion of, or the failure to complete, any activities which are an obligation of the SC to perform pursuant to this Agreement in regard to the duties herein described.

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Questions?

- Interstate Compact Agreements
- Township Agreements
- Interlocal Agreements
- Drafting Recommendations
- Common Contract Provisions and Clauses

For more information:

- Library Development Office can provide agreement samples.
 - StateWideServices@Library.IN.gov
- Sylvia Watson for questions regarding legal requirements
 - SyWatson@Library.IN.gov