

**NEW JERSEY ADMINISTRATIVE CODE**  
**TITLE 15. STATE**  
**CHAPTER 21. STATE LIBRARY AID AND GRANTS**  
**SUBCHAPTER 12. MUNICIPAL ANNUAL MANDATORY LIBRARY APPROPRIATION FOR THE**  
**MAINTENANCE OF A FREE PUBLIC LIBRARY**

**N.J.A.C. 15:21-12.1 Purpose and applicability of rules**

These rules are adopted by the State Librarian pursuant to N.J.S.A. 18A:74-1 et seq. In addition, these rules are adopted in order to clarify N.J.S.A. 40:54-8, and 40:54-29.4 as well as to consolidate and clarify by rule requirements related to municipal and joint free public libraries in this State. These rules supplement, in part, the rules adopted to clarify the funding formula regarding the financing of free public municipal libraries pursuant to N.J.S.A. 40:54-8 and 40:54-29.4 and Title 15 of the New Jersey Administrative Code. These rules are adopted in order to ensure that free public municipal libraries and joint free public libraries in the State are adequately funded, as required by law, to support the delivery of free public library services, as defined by N.J.S.A. 40:54-1 et seq.

**N.J.A.C. 15:21-12.2 Scope**

These rules apply to all municipal and joint free public libraries. To the extent that these rules are inconsistent with any other rules in this chapter and N.J.A.C. 5:30-12, these rules shall take precedence.

**N.J.A.C. 15:21-12.3 Definitions**

As used in this chapter, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:

"Annual mandatory library appropriation" means the annual appropriation of a municipal governing body for the eligible costs of the municipal or joint free public library pursuant to N.J.S.A. 40:54-8 and N.J.S.A. 40:54-29.4. The minimum annual appropriation must be a sum equal to one-third of a mill on every dollar of taxable value of each property within the municipality based on the equalized valuation of such property as certified by the Director of the Division of Taxation in the Department of the Treasury.

"Capital expense" means the funds appropriated to or required for furnishings, equipment (including computer hardware and software) and initial collections (print, non-print, electronic) for new buildings, building additions or building renovations; periodic major projects such as the upgrade of computer hardware and software, and the replacement of roofs, and heating, ventilation and air conditioning systems; and site acquisition, new buildings, and additions to or renovations of library buildings.

"Debt" means an obligation to pay a fixed sum of money, in a definite time, with a stated interest rate.

"Debt service" means the cost of financing and includes periodic payments of principal and interest upon municipal debts issued to finance the acquisition of library sites and the purchase or construction of library facilities, additions to library facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of library facilities, including furnishings, equipment, architect fees

and the costs of issuance of such obligations and shall include payments of principal and interest upon municipal debt heretofore issued to fund or refund such obligations and upon municipal bonds and other obligations.

"District board of education" means the local board of education or State district superintendent in the case of a State-operated district. It includes a local or regional school district established pursuant to N.J.S.A. 18A:8-1 et seq. or 18A:13-1 et seq., a county special services school district established pursuant to N.J.S.A. 18A:46-1 et seq., a county vocational school district established pursuant to N.J.S.A. 18A:54-1 et seq., and a State-operated school district established pursuant to N.J.S.A. 18A:7A-34 et seq.

"Division of Local Government Services" means the Division of Local Government Services in the New Jersey Department of Community Affairs.

"Eligible costs" means actual or fair market value of reasonable and necessary costs incurred in connection with the direct operation of a free public library to provide library services. Costs may include, but are not limited to, salaries, wages and benefits for specially trained library personnel to facilitate the purchasing, circulation and access of materials and information, and appropriately trained and credentialed management as well as support staff to directly support library personnel and technology and communication expenses. Other eligible costs include library materials; required and routine maintenance for the library facility subject to these rules; equipment used for the provision of library services; equipment or software purchased with a lease purchase agreement of less than five years; personnel and equipment that provide security for the library facility subject to these rules; furniture; technology and communication expenses related to the provision of library services; technology or communication expenditures related to wiring, telephones, Internet access, servers, personal computers or software; capital expenses meeting the criteria as defined in N.J.A.C. 15:21-12.5(c); and other expenditures directly related to the provision of library services or in support of such services.

"Equalized valuation" means the true value of real property within a local taxing district as calculated by the Division of Taxation in the New Jersey Department of Treasury, and computed from the aggregate assessed valuation and actual sales of property, used to distribute equitably State school and library aid, and measure municipal debt limits.

"Equipment" means machines necessary to store, access, copy or circulate information or cultural material; machines necessary to administer library functions and data collection, including but not limited to, fiche and film readers, photocopy machines and electronic usage counters, electronic security and computers.

"Ineligible costs" means costs that are not considered as eligible costs, which shall include, but are not limited to, lease payments on equipment or software purchased with a lease purchase agreement of five years or more; costs that exceed the actual or fair market value of the goods or services provided; rent paid to the municipality for library use of municipal facilities or equipment; debt service; and those capital expenses not meeting the criteria as defined in N.J.A.C. 15:21-12.5(c).

"Joint free public library" means any library eligible for advisory services from the State Library as provided in N.J.S.A. 18A:73-33 and having been established by ordinance of participating municipalities under N.J.S.A. 40:54-29.3 et seq.

"Landlord" means a private entity or district board of education that owns or administers property (including land or the land and buildings); or a private entity or district board of education that collects payments from renters or lessees for the use of the land or space in the buildings on a property.

"Lease purchase agreement" means any agreement pursuant to which the municipal or joint free public library, as lessee, leases equipment or software, and gives the library the option of purchasing the leased property during or upon termination of the lease, with credit toward the purchase price of all or part of rental payments which have been made by the library in accordance with the lease purchase agreement.

"Library materials" means publications and services incidental thereto, including, but not limited to, books, periodicals, newspapers, CDs, documents, DVDs, educational games, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, realia, sound recordings, audio books, slides, films, filmstrips, video, magnetic tapes, e-books, e-series, databases, electronic files, software, other printed and published matter, and audiovisual and other materials of a similar nature and necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of books or reference material.

"Maintenance of a free public library" means eligible costs of the municipal library and exclusive of ineligible costs including those capital expenses not meeting the criteria of N.J.A.C. 15:21-12.5(c).

"Municipal or joint free public library" means any library eligible for advisory services from the State Library as provided in N.J.S.A. 18A:73-35 and having been established by referendum of a municipality pursuant to N.J.S.A. 40:54-1 et seq.

"Rent or lease payment" means the agreed upon amount that a renter or lessee pays periodically at fixed intervals to a landlord or owner for use or occupancy of the owner's property or equipment.

"Required maintenance" means specific maintenance activities required for system warranty purposes which are approved for repairs and replacement parts for the purpose of keeping a library facility subject to these rules open and safe for use or in its original condition, including repairs to and replacement parts for a library facility's heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition, and which does not consist of replacement of the system.

"Routine maintenance" means contracted custodial or janitorial services, expenditures for the cleaning of a library facility subject to these rules or its fixtures, the care and upkeep of grounds or parking lots, and the cleaning of, or repairs and replacements to, movable furnishings and equipment.

"Security" means personnel specifically hired and to patrol the library facility subject to these rules and outside areas dedicated to library use as well as equipment and software used to provide safety and defense against theft or harm to persons or property.

"State support" means State library aid as described in N.J.S.A. 18A:74-1 et seq. and includes Per Capita, Audiovisual, Emergency and Incentive Aid.

"State Library" means the New Jersey State Library, which is affiliated with Thomas Edison State College pursuant to N.J.S.A. 18A:73-26.

**N.J.A.C. 15:21-12.4 Annual municipal or joint free public library funding**

(a) Pursuant to N.J.S.A. 40:54-8 and 40:54-29.4, municipalities are required to provide an annual mandatory library appropriation.

(b) Municipalities that elect to appropriate additional funding for municipal or joint free public libraries more than 15 percent above the previous year's total municipal expenditures for such library may do so upon application and approval from the State Librarian, as required by N.J.S.A. 40:54-8.1. Municipalities that chose to appropriate this additional amount are required to submit the following information to the State Librarian:

1. A prioritized itemized list that delineates the proposed use of the funds; and
2. Justification that supports the provision of efficient and effective library services.

(c) Municipalities may appropriate an additional sum greater than the annual mandatory library appropriation.

(d) Municipalities are required to expend money raised as per N.J.S.A. 40:54-8 and N.J.S.A. 40:54-29.4 in full to the treasurer of the board of trustees, or into a reserve account retained in the custody of the municipal treasurer to be disbursed by same after approval by the board of trustees of the free public library as provided by N.J.S.A. 40:54-13. Municipalities which structure the expenditure of the library appropriation into periodic payments, shall make such periodic payments to the treasurer in advance at a rate of no less than 25 percent of the total annual appropriation in quarterly installments.

(e) In those municipalities where the annual library appropriation pursuant to N.J.S.A. 40:54-8 and N.J.S.A. 40:54-29.4 is retained in the custody of the municipal treasurer and disbursed by him or her after approval by the board of trustees of the free public library, any prior year unexpended funds remaining from the annual mandatory library appropriation shall be retained in the library-controlled account dedicated for eligible purposes, as defined in N.J.A.C. 15:21-12.3 and 12.5, for the maintenance of such municipality's public library.

**N.J.A.C. 15:21-12.5 Eligible municipal or joint free public library costs that may be supported with the annual mandatory library appropriation**

(a) The annual mandatory library appropriation shall be expended by the library board of trustees for eligible costs as defined in this chapter.

(b) Rent may be considered an eligible cost from annual mandatory library appropriation if such rent is paid to a private entity or a school district and is comparable with the fair market value for rent in the municipality based on a cost per square footage.

(c) Capital expense paid for by the library board of trustees with funds from the annual mandatory library appropriation may be considered an eligible cost for the library board of trustees if:

1. All conditions of N.J.S.A. 40:54-1 et seq. and N.J.A.C. 15:21-2 are met;

2. There are sufficient funds remaining for the maintenance of the library for the balance of the year in which the funds are saved or the cost occurs; and

3. The library board of trustees has a written plan of at least three years that reflects that the long-term capital expense will contribute to the provision of efficient and effective library services, and that the plan will be made available to the State Librarian upon request.

**N.J.A.C. 15:21-12.6 Ineligible municipal or joint free public library costs that may not be supported with the annual mandatory library appropriation**

(a) The annual mandatory library appropriation shall not be expended by the library board of trustees for ineligible costs as defined in this chapter and including:

1. Debt or lease payments made to a municipality;
2. Rent or lease payments made to a municipality;
3. Capital expenses not meeting the criteria of N.J.A.C. 15:21-12.5(c); and
4. Debt service costs.

(b) Municipal and joint free public libraries that are not in compliance with (a)1, 3, and 4 above on January 16, 2007 may apply by January 16, 2008 to the State Librarian for a limited extension to continue to use the annual mandatory library appropriation for debt or lease payments made to a municipality, capital expenses not meeting the criteria of N.J.A.C. 15:21-12.5(c) and debt service costs. In order to be considered eligible, the applicant must include a plan to phase out the use of the annual mandatory library appropriation for these costs.

**N.J.A.C. 15:21-12.7 Annual municipal and joint free public library reports and audit**

(a) Pursuant to N.J.S.A. 18A:74-11, each library receiving State aid shall annually make and transmit a report to the State Librarian on or before a date designated by the State Librarian and based on a fiscal year, the statute notwithstanding. Each library and municipality applying for per capita state aid will meet this requirement through the annual submission of the survey, application and certification. This report will contain such information, based upon the records and statistics of the preceding fiscal year, as the State Librarian shall require and will include the following elements:

1. A statement setting forth in detail all public revenues received by the library including the amount of the annual mandatory library appropriation expended by the municipality to the library; or if budget appropriations are customarily retained in the custody of the municipal treasurer and disbursed after approval by the board of trustees of the free public library, the annual amount appropriated and expended to the treasurer of the board of trustees or held in a reserve account for the exclusive use of the library trustees;
2. State aid received by the library;

3. Expenditures made by the library and the balance of funds available including balances from the annual mandatory library appropriation. The library trustees through resolution shall duly authorize all such expenditures;

4. An analysis of the state and condition of the library facility prepared by the Library Director, as the State Librarian shall require;

5. A statement that an annual audit has been conducted as required by N.J.S.A. 40A:5-4 et seq. and described in N.J.A.C. 5:30-6.1; and

6. A statistical report of general information, the number and categories of employees, the number and types of library material holdings, service statistics, salary information and trustee information as the State Librarian shall require.

(b) Pursuant to N.J.S.A. 40:54-15, the board of trustees shall make an annual report to the State Librarian. Each library and municipality applying for per capita State aid will meet this requirement through the annual submission of the survey, application and certification. All libraries not applying for per capita State aid shall report those elements as required in (a)1 through 5 above, and shall annually submit to the State Librarian a certified audit of the prior year.

(c) Pursuant to N.J.S.A. 40:54-15, the board of trustees shall make an annual report to the chief financial officer of the municipality which shall include a statement setting forth in detail all public revenues received by the library, all State aid received by the library, all expenditures made by the library and the balance of funds available. The annual report shall also include an analysis of the state and condition of the library and shall be sent to the municipal governing body.

(d) A certified audit of the library board of trustees shall be performed annually as required by N.J.S.A. 40A:5-4 et seq. and described in N.J.A.C. 5:30-6.1. In some cases, all budget appropriations, fines, fees and all other income of the library are retained in the custody of the municipal treasurer in an account reserved for the library and disbursed by the municipal treasurer after approval by the board of trustees of the free public library. If the municipal audit includes a thorough audit of the library's finances, including demonstration that the library board of trustees duly authorized all expenditures, then the municipal audit will meet this requirement.

#### **N.J.A.C. 15:21-12.8 Withholding of State support for non-compliance**

(a) Pursuant to N.J.S.A. 18A:73-35(f) and 18A:74-12, the State Librarian may withhold State support and request that the State Department of Treasury withhold funds to any municipal or joint free public library or municipality that fails to comply with the rules and standards which are prescribed by law or by the State Librarian.

(b) Pursuant to N.J.S.A. 40A:4-77, the Division of Local Government Services shall not approve a municipal budget unless the budget has been adopted in accordance with all other provisions of law, including, but not limited to, this subchapter.

#### **N.J.A.C. 15:21-12.9 Appeals procedures**

(a) Upon failure to comply with this subchapter, the library board of trustees may appeal to the State Librarian upon written request for a determination that expenditures are or were not in compliance with this subchapter during a specific fiscal year. Written notice of the library board of trustees' appeal shall be provided to the municipality.

(b) Within 30 days of written notice, the library board of trustees may submit to the State Librarian a written response to the appeal, and either party may request an informal hearing before the State Librarian. The parties shall provide information concerning municipal and library expenditures during the fiscal year at issue upon request of the State Librarian.

(c) The State Librarian shall issue a written decision to the library board of trustees, with copies to the municipality and to the Division of Local Government Services. A determination by the State Librarian that expenditures during a fiscal year were not in compliance with this chapter may result in sanctions for non-compliance including the withholding of State Support for subsequent fiscal years as provided above in N.J.A.C. 15:21-12.8.