

Lakeland Library Cooperative  
PPS Committee Minutes  
March 20, 2008

*EXCERPT ON BANKRUPTCY AGENDA ITEM*

- VII. A. The committee's decision based on the fact that a library is a governmental agency and falls under nondischargeable debt that Fines and penalties are considered nondischargeable debt. Library materials are not the patron's property; and are the property of the library and therefore are nondischargeable.

Recommendations on bankruptcy procedure are as follows:

1. Paperwork must come from the Court.
2. No other Library can waive other Library Fines or Fees of the patron in bankruptcy.
3. The library receiving the bankruptcy papers from the court must put a note on the patron's card, identifying that library as a creditor.
4. If a library is listed as creditor and didn't place that patron in collections, they must then notify the library that did place that patron in collections as a courtesy.
5. After a library has been notified, they must then notify UMS. (Unique Management Services)
6. Based on local policy a library can then decide whether to waive the fines, fees and lost materials for their own library only. If a library decides to waive the fines and fees and lost materials a note should be put in the note fields of the patron.
7. Any Charges incurred after bankruptcy was filed are not part of the bankruptcy.

Respectfully submitted by Janice Williams (MH)

Lakeland Library Cooperative  
**BANKRUPTCY Guidelines**

Adopted by the PPS Committee: \_\_\_\_\_

**Overview of Bankruptcy Law and Lakeland Library Cooperative Libraries**

1. The filing of a bankruptcy case automatically prohibits creditors from collecting most debts from a debtor, unless the bankruptcy case is dismissed.
2. A discharge releases individual debtors from personal liability for most debts and prevents the creditors owed those debts from taking any collection actions against the debtor.
3. Additional bankruptcy information and sample forms are attached.
4. Case law on bankruptcy and libraries is limited, and bankruptcy law is complex. This document is only a guideline. Local libraries should consult with their own attorney to discuss any questions they have about bankruptcy law or specific bankrupt library patrons.

**Procedural Guidelines**

1. If the library is notified that a patron has filed for bankruptcy, put a note on the patron's record, "*Library name, date of bankruptcy filing, date library received notice of bankruptcy filing, library code and the initials or name of the staff member.*" If the library has not been sent a bankruptcy notice by the Bankruptcy Court, ask the patron to provide proof of the bankruptcy. Until a Discharge is entered by the Bankruptcy Court, the patron remains responsible for costs for unreturned collection materials, fines/fees on their record, and all applicable Lakeland Library policies will apply. If a patron does not name the library as a creditor, but provides a copy of a bankruptcy notice, the library would be wise to treat it as official and follow the same guidelines as if the library were listed as a creditor on the notice.
2. Overdue notices, bills or collection activity should stop. Failure to do so may result in being in contempt of court. (Note: In Innovative e-mail and telephone notices can be removed, however, catching mailed overdue notices from potentially multiple libraries is too risky to guarantee that a notice will not be mailed to a bankruptcy petitioner.)
3. If the initial library the patron contacts is not the library that put the patron in collections with Unique Management, inform the patron that he/she should notify the library of the bankruptcy that did place them in collections.
  - a. After a library that put the patron into collections has been notified, that library must then notify Unique Management Services that the patron is in bankruptcy.
  - b. Put a note on the patron's record "*Library name, Unique Management notified, date, library code and the initials or name of the staff member.* "
4. An official Bankruptcy Order of Discharge from the court releases the patron from any obligation to pay for unreturned collection materials. Do not retain the fines and fees on the patron record except in a note field.
5. Any charges incurred after the bankruptcy was filed are not discharged.
6. Charges incurred by spouse or children not listed on the bankruptcy papers are not considered part of the bankruptcy and should be left on those patron records. (Note: a joint petition can be filed by a married couple.)

7. The patron should be asked to provide the library with a copy of the Bankruptcy Court Order of Discharge. The procedure:
  - a. Lakeland Library Cooperative libraries should honor Bankruptcy Court discharge orders even if the library or libraries are not listed as creditors in the bankruptcy case.
  - b. Make a copy of the court's Order of Discharge and file.
  - c. The first library receiving the Bankruptcy Court Order of Discharge from the court or provided by the patron should put a note on the patron's record "*Library name, library code, Bankruptcy Discharge Order date, date library received the order, and the initials or name of the staff member*".
  - d. Remove all costs related to non-returned collection materials for your library only from the bankruptcy patron's record.
  - e. Inform the patron that he/she should provide each library in the Lakeland Library Cooperative with a copy of the Discharge Order so the items on their patron record can be removed from each library.
8. Fines and fees should not remain on the patron record after a Discharge Order is entered by the Bankruptcy Court. This includes removing/waiving the collection agency fee.

#### **Lakeland Library Cooperative Disclaimer**

The Lakeland Library Cooperative bankruptcy procedural guidelines are not intended to constitute legal advice. The Lakeland Library Cooperative makes no representations or warranties regarding the accuracy or completeness of this bankruptcy information. Lakeland Library Cooperative libraries are encouraged to consult with their own attorney with any specific bankruptcy questions they may have.

#### **Other Options Outside the Cooperative Guidelines**

1. An individual library receiving a notice of bankruptcy and listed as a creditor has the option to file a claim with the appropriate Bankruptcy Court. Work with your own attorney on this. You should be aware, however, that only a small number of claims are ever paid off and that this may not be worth your time involvement.
2. Check with your own library attorney on the possibility of filing a misdemeanor in court for stolen items from a patron that has filed for bankruptcy and decide if you want to have your municipality approve a misdemeanor resolution on lost materials.