

BEFORE THE STATE LIBRARY COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION
of new rules 10.102.5105 and)
10.102.5106 relating to)
federation advisory boards)
and base grants)

TO: All Concerned Persons:

1. On February 10, 2000 the State Library published notice of the proposed adoption of new rules 10.102.5105 and 10.102.5106 relating to federation advisory boards and base grants at page 247 of the 2000 Montana Administrative Register, issue no. 3.

2. The state library has adopted ARM 10.102.5106 (New Rule II) as proposed and ARM 10.102.5105 (New Rule I) with the following changes.

10.102.5105 JOINING LIBRARY FEDERATIONS (1) through (2) remain the same.

(a) The majority of the board shall be public library trustees and the board ~~must~~ shall have at least one representatives from each ~~of the other types of libraries~~ that ~~are~~ participates in the federation members;

(b) At the spring meeting, the federation delegates shall elect the board members according to federation advisory board bylaws.

AUTH: Sec. 22-1-103, MCA;
IMP: Sec. 22-1-103, 22-1-328, 22-1-330, 22-1-331, 22-1-402, 22-1-404, and 22-1-413, MCA.

3. Written comments received follow along with the response of the state library:

COMMENT 1: New rule I is unclear in that it makes it sound as if there are two sets of bylaws, one for the board, and one for the Federation itself.

RESPONSE 1: The state library agrees, and will insert "advisory board" into the sentence to clarify.

COMMENT 2: Insert language in New Rule I, (2)(a) to clarify that each type of library has one representative.

RESPONSE 2: The state library agrees, and will amend the sentence.

COMMENT 3: It seems that school and university libraries, with respect to federation membership and inter-library loan reimbursement, are treated inconsistently. All schools

within a district count as a single district, as do all libraries within a university. For the purpose of federation membership, schools and university libraries are treated as discrete entities, each school library as a single entity, as well as each university library. This makes for a very large number of potential members. The added expense and workload to the federation of communicating with these potential members, finding meeting locations, designing programs, and maintaining membership lists has not been addressed.

RESPONSE 3: Montana law states that "schools," which means individual schools and not school districts, may join federations. The state library believes that the intent of the change in federation membership is designed to increase the membership of all types of libraries in federation activities. If a large increase in federation members is achieved and becomes an administrative problem, the state library believes that other action, such as increasing administrative support or funding is preferable, rather than restricting membership to a limited number.

COMMENT 4: Under (2), law states that the monies, coal tax and state aid, are to remain with public library members of the federation. However, federations are now required to have representation from each of the other types of libraries as voting members who will, in part, determine how this public library money is spent. This seems to be a conflict-ridden situation. While the majority of the board will be public library trustees, it is possible that a quorum of members voting on federation plans of service and use of federation funds could represent a majority other than public library trustees. Responsibility without accountability is a bad idea.

RESPONSE 4: According to agency council, the law states that each library in the state is eligible to join federations. Because each library is eligible to join, each should have an equal opportunity to vote and influence federation decisions. The advisory board, which is by law required to have a majority of public library representatives, has the authority to move the plan of service on to the state library commission who makes the final decision on the plan. Each of these boards will act in the best interests of the federations and in compliance with the law.

COMMENT 5: The justification statement included in the original proposal is vague and describes what the rules are intended to do rather than why they are necessary. Montana law states that mandating an agency adopt rules establishes the necessity for rules, but does not by itself constitute reasonable necessity for the rule. Please identify the bill

passed in 1999 and explain why rules are needed in this area.

RESPONSE 5: The legislature passed HB125 in 1999 which gave the state library commission the authority to adopt rules regarding base grants and advisory boards. The commission finds that such rules are necessary to give federations the necessary guidance in their transition to become organizations with members from different types of libraries. This guidance is especially needed in the area of creating advisory boards for the federation. Furthermore, the commission finds that rules are necessary to give federations a process by which to award state funds for federation or individual library projects that advance federation goals.

4. As a result of the comments received the state library has adopted rule 10.102.5105 as amended and rule 10.102.5106 as proposed.

Karen Strege
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State Librarian

Certified to the Secretary of State June 5, 2000.