

BEFORE THE MONTANA STATE LIBRARY
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
amendment of ARM 10.101.201,)	ON PROPOSED AMENDMENT AND
10.101.206, and 10.102.5102 and)	REPEAL
the proposed repeal of ARM)	
10.101.204, 10.101.205,)	
10.102.5103, 10.102.5104,)	
10.102.5201 through 10.102.5207,)	
and 10.102.8001 pertaining to)	
the rules for the Montana State)	
Library Commission)	

TO: All Concerned Persons

1. On December 17, 2002, at 9:00 a.m., a public hearing will be held in the conference room of the Montana State Library, at 1515 East 6th Ave., Helena, Montana to consider the amendment and repeal of the above-stated rules.

2. The State Library will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the State Library no later than 5:00 p.m. on December 11, 2002, to advise us of the nature of the accommodation that you need. Please contact Barbara Duke, Montana State Library, 1515 East 6th Ave., P.O. Box 201800, Helena, MT 59620-1800, (406) 444-3384, (406) 444-3005 (TDD), (406) 444-0266 (fax), baduke@state.mt.us (email).

3. The rules proposed to be amended provide as follows: (stricken matter interlined, new matter underlined)

10.101.201 INCORPORATION OF MODEL RULES (1) The state library commission has adopted the attorney general's model rules of administrative procedure, as set forth in ARM~~7~~, Title 1, chapter 3, with the proviso that a hearing on denial of an application for a grant of Library Services and ~~Construction Technology~~ Act funds may be conducted under the commission's rule ARM 10.101.202, or in the alternative, under the model rules of contested case hearing.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to amend the rule for clarification as Congress changed the name of the federal act for libraries to the Library Services and Technology Act.

10.101.206 APPEALS PROCESS FOR DENIAL OF A GRANT
(1) remains the same.

(2) Upon receiving a notice of appeal, the state librarian, acting on behalf of the commission, shall convene an independent review committee. The committee shall be composed as follows:

(a) a representative named by the appellant who is not from the appellant's library or governing authority;

(b) a representative chosen by the chair of the ~~Montana library services advisory council~~ commission, who is not a ~~council~~ commission member; and

(c) a representative from the library community who is not connected to the appellant, named by the president-elect of the Montana library association.

(3) and (4) remain the same.

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to amend the rule for clarification as the reauthorized Library Services and Technology Act does not require the Commission to establish a council. The Governor's Executive Order establishing the council has expired. The Commission finds that the substitution of commission chair for council chair will not change the rule's purpose, which is to appoint members of an independent rule committee composed of a representative from the agency, the appellant, and an impartial member.

10.102.5102 ALLOCATION OF FUNDING BETWEEN FEDERATIONS AND GRANT PROGRAMS (1) At its first meeting following receipt by the library commission of the estimate of the appropriation to public library federations the commission shall allocate all funds received ~~up to \$500,000~~ to library federations according to the following formulas:

(a) through (f) remain the same.

AUTH: 22-1-413, MCA

IMP: 22-1-413, MCA

REASON: The Commission finds it is reasonably necessary to amend the rule for clarification as the Commission receives no funds for federations in excess of \$500,000.

4. The Commission proposes to repeal the following rules:

10.101.204 GRANTS TO LIBRARIES UNDER THE LIBRARY SERVICES AND CONSTRUCTION ACT found on page 10-1207 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule for clarification as there are no funds available to provide Library Service and Construction Act (or

Library Service and Technology Act) grants to individual libraries at this time and as the reauthorized Library Services and Technology Act does not require the Commission to establish a council. The Governor's Executive Order establishing the council has expired.

10.101.205 LIMITED AND OPEN COMPETITIONS FOR LIBRARY SERVICES AND CONSTRUCTION ACT GRANTS found on page 10-1209 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule for clarification as there are no funds available to limited and open competitions for Library Service and Construction Act (or Library Service and Technology Act) grants to individual libraries at this time and as the reauthorized Library Services and Technology Act does not require the Commission to establish a council. The Governor's Executive Order establishing the council has expired.

10.102.5103 GRANT PROGRAMS AND APPLICATION PROCEDURE found on page 10-1270 of the Administrative Rules of Montana.

AUTH: 22-1-413, MCA
IMP: 22-1-413, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule for clarification as the Commission receives no funds for federations in excess of \$500,000.

10.102.5104 PRIORITIZATION OF GRANT APPLICATIONS found on page 10-1270 of the Administrative Rules of Montana.

AUTH: 22-1-413, MCA
IMP: 22-1-413, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule for clarification as the Commission receives no funds for federations in excess of \$500,000.

10.102.5201 LOAN SERVICES found on page 10-1273 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule as the Commission has determined that the rule is unnecessary to effectuate the purpose of its statutes. The Commission finds that its policy, "Information Services Policy," regarding the use of the library is sufficient to explain the Commission's position on loan services.

10.102.5202 ADVISORY SERVICES found on page 10-1273 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule as the Commission has determined that the rule is unnecessary to effectuate the purpose of its statutes. The Commission finds that its policy statements contained in the agency's strategic plan are sufficient to explain the Commission's position on advisory services.

10.102.5203 ACCESS TO CIRCULATION RECORDS found on page 10-1274 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule as the Commission has determined that the rule is unnecessary to effectuate the purpose of its statutes and that the rule repeats statutory language in the Library Records Confidentiality Act, 22-1-1101, 22-1-1102, 22-1-1103, 22-1-1111, MCA.

10.102.5204 SELECTION OF MATERIALS found on page 10-1274 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule as the Commission has determined that the rule is unnecessary to effectuate the purpose of its statutes. The Commission finds that its policy, "Collection Development Policy," regarding the selection of library materials is sufficient to explain the library's procedures on selecting material.

10.102.5205 CRITERIA FOR SELECTION OF MATERIALS found on page 10-1275 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule as the Commission has determined that the rule is unnecessary to effectuate the purpose of its statutes. The Commission finds that its policy, "Collection Development Policy," regarding the selection of library materials is sufficient to explain the library's procedures and practices with selecting material.

10.102.5206 PROCEDURES FOR CHALLENGING MATERIALS found on page 10-1276 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule as the Commission has determined that the rule is unnecessary to effectuate the purpose of its statutes. The Commission finds that its policy, "Collection Development Policy," regarding the complaints about library materials is sufficient to explain the library's procedures.

10.102.5207 CHARGES FOR LOST OR DAMAGED BOOKS found on page 10-1276 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule as the Commission has determined that the rule is unnecessary to effectuate the purpose of its statutes. The Commission finds that its policy, "Information Services Policy," regarding library use is sufficient to explain the library's procedures on charging for lost or damaged materials.

10.102.8001 GRADUATE SCHOLARSHIP PROGRAM found on page 10-1289 of the Administrative Rules of Montana.

AUTH: 22-1-103, MCA
IMP: 22-1-103, MCA

REASON: The Commission finds it is reasonably necessary to repeal the rule as the Commission has determined that the Commission has no such funds available and no such program.

5. Interested parties may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Barbara Duke, Montana State Library, 1515 East 6th Ave., P.O. Box 201800, Helena, MT 59620-1800 no later than 5:00 p.m. on December 27, 2002. Data, views or arguments may also be submitted by facsimile to (406) 444-0266 or by email to baduke@state.mt.us.

6. An electronic copy of this Notice of Public Hearing is available through the State Library's website at <http://msl.state.mt.us>. The State Library strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the State Library strives to keep its website accessible at all

times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the email address does not excuse late submission of comments.

7. Karen Strege, State Librarian, has been designated to preside over and conduct this hearing.

8. The Montana State Library maintains a list of persons who wish to receive notices of rulemaking actions proposed by the State Library. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding State Library administrative rulemaking proceedings or other administrative proceedings. Such written requests may be mailed to the Montana State Library, 1515 East 6th Ave., P.O. Box 201800, Helena, MT 59620-1800, faxed to the Library at (406) 444-0266, emailed to baduke@state.mt.us or may be made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor notice requirements of 2-4-302, MCA do not apply.

By: /s/ Rosemary Garvey
State Library Commission
Rosemary Garvey, Chairperson

By: /s/ Karen Strege
Karen Strege, State Librarian
Montana State Library

Certified to the Secretary of State November 18, 2002.