

State Librarian's Report
May 18, 2009 through July 17, 2009
Prepared for August 5, 2009 Commission Meeting
By Darlene Staffeldt

As I reflect back over these past couple of months, we have been very busy and we have accomplished many activities, tasks and services under all five of our goals. I would like to focus this report on our activities with regards to legal issues and services.

As background please know that the Montana State Library is one of several agencies that does not have the funding or the number of full time employee equivalency necessary to have a full time attorney on staff. Nor do we have the need on an ongoing basis for a full time attorney on staff. In order to obtain the legal services we do need, we enter into an interagency agreement with the Agency Legal Services Bureau, Legal Services Division of the Montana Department of Justice. The purpose of this agreement is to ensure that the Library has legal advice and representation in various forums when needed. Each year our budget includes funding for this agreement based on "snapshot" year use of the Bureau's services at the current price for the services. The interagency agreement for FY 2010 quotes the rate of ninety-three dollars (\$93.00) per hour for attorney time and fifty-three dollars (\$53.00) per hour for paralegal and investigator time.

Although Jim Scheier is now the Bureau Chief for the Agency Legal Services Bureau, at the time of his promotion to this position he retained his long standing role as lead attorney for the Montana State Library. Jim has worked with Montana's State Librarians over the past twenty-five years so he is well informed on library law and library issues.

Over the years we have used Jim and/or one of his associates at the Agency Legal Services Bureau to assist us with a variety of legal issues including but not limited to:

- Review of all contracts for legal compliance;

- Preparation and/or review of legal documentation for any appropriate personnel actions (hiring, firing, reduction in force, grievances, etc.);
- Legal clarification and guidance in addressing public library issues of potentially of statewide importance which appear to have legal implications
- Review and advice regarding the development of materials we use to train librarians and trustees on Montana's library laws.

Specifically, these last couple of months, we have had the Agency Legal Services Bureau working with us on the following items:

- Helped us prepare comments on a draft Attorney General's opinion that potentially affected powers of local library boards of trustees. As a result of our comments and the Bureau's follow up with the Attorney General it appears that the AG's opinion will be released without earlier draft language that was specifically directed at the governance of public libraries in a manner we felt would seriously undermine library board authority. We are still waiting for the final opinion to be released.
- Reviewed correspondence and Professional Education and Employment for Librarians (PEEL) documents related to one PEEL II scholar's scholarship agreement, her current position, and a letter from her attorney. Provided a draft and additional advice on a letter from the State Librarian to the PEEL scholar's attorney. Waiting for confirmation but it looks like this individual has found qualifying PEEL employment.
- Reviewed renewal contract for extension of agreement between the State Library and OverDrive, Inc. This contract provides the MontanaLibrary2Go audio books. This contract has been signed.
- Reviewed renewal contract for Natural Heritage Program. This contract provides for the services of the Natural Heritage Program within our Digital Library program. This contract is under review by University of Montana attorneys.

- Researched, prepared, and filed the Amicus Brief for the Butte-Silver Bow Public Library case currently before the Montana Supreme Court. I have included a copy of this brief in your meeting materials.

Please let me know if you have any questions regarding the State Library's use of legal services through the Agency Legal Services Bureau of the Department of Justice.