

MEMORANDUM  
Agency Legal Services Bureau  
Department of Justice  
444-2026

TO: SHEILA CATES  
Coordinator of Library Development  
Montana State Library

FROM: JIM SCHEIER *JS*  
Assistant Attorney General

RE: Your Memo Dated January 11, 1990

DATE: January 16, 1990

I.

You asked whether a city library which receives funds from the county must become a city-county library. A city may either become a joint city-county library, pursuant to section 22-1-316, MCA, or assume the functions of a county library, pursuant to section 22-1-315, MCA. In either case, however, the respective governing bodies of the city and the county, or the governing body of the county and the city library board of trustees must enter into a contract. Since that was not done here, the city library has not become a city-county library merely by accepting money from the county.

A library board of trustees is empowered, under section 22-1-309(8), MCA, to accept gifts, grants, donations, etc. of, inter alia, personal property. "Personal property" is defined as including money. § 1-1-205(1), MCA. If a city library board of trustees accepts money from the county, it must be treated as provided in section 22-1-309(8), MCA. Thus, it must be expended only for the "specific purpose" of the gift, grant, donation, etc. (if one is specified by the county), and it must be kept separate from regular library funds.

II.

You also inquired whether city library trustees must reside in the city limits. As you noted, there is nothing in the statutes pertaining to public libraries which sheds any light on this question. Municipal officers must be residents of the city or town in which they serve, but city library trustees are not municipal officers. See sections 7-4-4101 and 7-4-4111(7), MCA. In the absence of any residence requirements in the statutes, I would say that city library trustees may reside anywhere. Cf. section 2-16-111, MCA, (restrictions on the residence of public officers of the State are contained in the particular statutes pertaining to the respective officers).

*Public Library  
1990*

January 11, 1990

TO: Jim Scheier  
FROM: Sheila Cates  
RE: Public Library Law

Today I have two questions about the public library laws.

The first one deals with whether or not a city library must become a city/county library if it receives county funds. One of our city libraries has received some funding from the county and they want to know then if that means they have become a city/county library according to 22-1-315 MCA. There is no contract in place between the library board of trustees and the county commissioners so my interpretation is that they would not have to be a city/county library. The funds from the county could be treated as funds from another source such as grant funds. Please advise me on the correct legal interpretation.

The second question is from the same library, but has actually surfaced before in other ways. It deals with the residence of members of boards of trustees. If a library is a city library, do the board members have to reside within the city limits or can they be county residents? Again, I don't find anything in 22-1-308 or 22-1-309 MCA that deals with the question. Would there be anything in the CODES dealing with local government that would relate to this question.

Thanks for your assistance, Jim, if I can clarify anything for you please call me at 5352.