

3. The following new rules will read as follows:

- RULE I PUBLIC LIBRARY STANDARDS** (1) Public libraries receiving state payments must meet the following standards by July 2001 and each year following:
- (a) the library is legally established under Montana's laws according to Title 7, and 22-1-301 through 22-1-317, MCA;
 - (b) the board conforms to all applicable state, local, and federal laws, rules, and regulations;
 - (c) libraries that serve more than 25,000 employ a library director with a graduate degree in library or information science or its equivalent;
 - (i) the commission will determine equivalency by:
 - (A) examining the applicant to determine if she or he possesses the knowledge and abilities equivalent to those of a library school graduate and is qualified to carry on library work ably and efficiently; or
 - (B) determining that the applicant holds a graduate degree in another related curriculum area.
 - (d) libraries that serve less than 25,000 employ a library director who is, or will be within three years of hire, certified by the state library or employ a library director who has a graduate degree in library or information science or its equivalent;

Comment: Three years is not enough time to be certified.

Agency reply: The certification program has been amended to include an enrollment level. This enrollment and subsequent participation in approved continuing education activities will provide all library directors in this category sufficient time to achieve this standard.

- (e) paid staff person is present during 90% of all open hours;
- (f) the library submits the Montana Public Library Annual Statistical Report to the Montana state library; [See Rule VI]
- (g) the library is open during the week at least the following minimum hours:

Population	Minimum hours open	Desirable
Less than 3,500	15	25-40
More than 3,500	30	40-50
More than 10,000	40	50-60
More than 25,000	50	60+

- (i) many libraries exceed this minimum because the community, board, and director recognize that the number of hours of public service leads to great use by the public,

(ii) a library with more than one service outlet may use the total non-overlapping hours of all the library's service outlets to meet the minimum weekly hours open requirement,

(iii) if a library has summer hours that differ from its winter hours, the hours for the majority of the calendar year should be the hours used for comparison with the minimum hour table.

(iv) if a library has a service population that is no more than five percent over the minimum for any of the upper three ranges, then the state library will consider the library in the next lowest range for service population purposes.

Comments: Why is the gap from 3,500 to 10,000? Commentator suggests ranges from 3,500 to 5,000; 5,000 to 7,000; and 7,000 to 11,000.

Agency comments: The committee that drafted the standards looked at the divisions used by other states and researched other divisions. Their best judgement is that these divisions are appropriate in Montana.

The agency suggests that (iv) be added to allow libraries that fall on the edge of a population division to use a lesser standard.

(h) the library has a telephone and answers telephone inquiries.

Comments: If a library does not receive its state funding due to non-compliance with standards, what will the State Library do with these dollars?

Agency comments: The State Library will leave the funds in the various state aid accounts and disperse the funds, according to its rules, to libraries that meet these standards.

Auth: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-1-330 and 22-1-331, MCA

RULE II CERTIFICATION STATEMENT (1) Montana state library will send a certification statement to public libraries each fiscal year.

(a) This statement will provide for a status report regarding each standard and will require the signature of the library director and the library board chair.

(b) The signed and dated certification statement will be returned to the state library by August 25th of each year.

Comment: Insert "each year" after the first statement.

Agency response: Agreed, inserted "each year" in Rule II (1).

Auth: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-1-330 and 22-1-331, MCA

RULE III DEFERRALS (1) Any library may request a waiver from the state librarian in writing by August 25th of each fiscal year.

- (a) The state librarian may grant a waiver of any of the standards in [Rule I] if:
 - (i) the library certifies that application of these standards would cause a hardship; and
 - (ii) provides a compliance plan by which the library will meet the standard(s) within three fiscal years.
- (b) The state librarian shall notify the library requesting the waiver of the decision by letter by October 1.
- (c) Any library may request a one-year extension of the waiver from the state librarian in writing by August 25th of each year. The library shall provide the state librarian with an updated compliance plan and a statement that the application of the standard will cause a hardship.
- (d) The state librarian may grant an extension for one year only. No other extension is allowed.
- (e) Any library that employs a director without a graduate degree in library or information science or its equivalent as of July 1, 2001 is exempt from [Rule I(1)(c)]. This exemption expires when the director is no longer employed.

Auth: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, MCA

Comment: If a library cannot meet these standards within the three years, is another deferral possible?

Agency comment: Yes, a one-year extension has been added to the draft rules. No other extension is allowed.

RULE IV FINAL ARBITER (1) For any questions arising because of [Rules I-VIII], the final arbiter is the state library commission.

Auth: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, MCA

RULE V APPEALS PROCESS (1) The following outlines the process that libraries need to follow if they are denied a waiver of one or more of the standards from above.

- (a) Any public library shall have the right to appeal. The request for the appeal shall be made to the State Librarian at P.O. Box 201800, Helena, MT 59620-1800 (406-444-3115) within 12 working days of the receipt of the letter denying payment.
- (b) Upon receiving a notice of appeal, the state librarian, acting on behalf of the commission, shall convene an independent review committee. The committee shall consist of:
 - (i) a member named by the appellant who is not a member of the library staff, library board, or a city or county commission, from the appellant's library or governing authority;
 - (ii) a member chosen by the chair of the state library commission, who is not a commissioner or a state library staff member; and

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

(c) The independent review committee shall hear the appeal based on the following procedures:

(i) both the appellant and the state librarian shall have equal opportunity to present testimony, either in writing or orally, and to respond to points raised by the other party.

(ii) the independent review committee shall make its findings and recommendations to the Montana state library commission, which shall take final action on the appeal.

(d) The commission can affirm, deny, or modify the findings and recommendations of the independent review committee.

(e) The state librarian, upon final determination of the appeal by the commission, shall notify the appellant in writing. This notice shall conclude the appeals process.

(f) Neither the independent review process nor any subsequent review and decision process of the commission is a contested case, and common law and statutory rules of evidence do not apply to these proceedings.

Auth: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-3-330 and 22-1-331, MCA

Comments: Is the “denied a waiver” in (1) the same as “letter denying payment in (1) b? It is unclear if a library is notified before payment is denied.

Agency response: Letter clarified in addition to Rule III(b).

Comments: In (b) (I) “who is not from the appellant’s library” does that mean it cannot be a library patron or just not staff? Does “not . . . governing authority” mean city, county, or in our case as multi-jurisdictional, also not trustees?

Agency response: Clarified in (b) (I).

Comments: Are libraries limited to an appeal on process issues?

Agency response: No, libraries may enter the appeal for any violation of process or a difference in interpretation.

RULE VI ANNUAL STATISTICAL REPORT (1) The commission, in setting up minimum standards of free public library service and in certifying such libraries for state monies shall require the filing of an annual statistical report.

(a) This annual report may include such types of information as the Montana state library commissioners shall deem necessary.

(b) In no instance shall the commission require new cumulations of statistical data without providing to each affected public library, 60 days prior to the beginning

of the period of which information will be collected, notice of the commission's intention to require such cumulations as part of the annual report.

Auth: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-1-330 and 22-1-331, MCA

RULE VII EFFECTIVE DATE (1) In order to give all public libraries time to meet these standards, [Rules I-VII] will become effective on July 1, 2001.

(2) The effective date for certification requirement of [Rule I(1)(d)], is July 1, 2002.

Auth: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, MCA

RULE VIII ADDITIONAL RECOMMENDED LIBRARY STANDARDS

(1) The Montana state library commission has adopted additional public library standards that are not presented in these rules because they are not mandatory standards.

(2) The commission strongly recommends that all public libraries follow as many of the recommended library standards as possible.

(3) A complete set of voluntary public library standards has been sent to all public libraries in a document labeled: Montana Public Library Standards, August 1999.

(4) Additionally, the full set of standards can be found on the state library's web page at:

<http://msl.state.mt.us/admin/libstandards.htm>.

Auth: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, MCA

4. The repeal and adoption are proposed for the following reasons:

(a) The standards are the result of a cooperative project between the Montana State Library (MSL) and the Montana Library Association's (MLA) Public Library Division.

(b) Together, MSL and MLA reviewed the 1987 edition of the standards and identified concerns and issues to be addressed in an updated edition.

(c) The joint committee debated each issue through in-person, e-mail, and telephone conversations.

(d) The Montana State Library Commission approved the Montana Public Library Standards in January 1999.

(e) The commission, MSL staff, and the Public Library Division hope that Library staff and trustees find these standards helpful as they plan for the improvement of local library services.

(f) In particular, we intend that these standards:

(i) provide a tool to assess the quality and effectiveness of the library;

(ii) help each library determine areas to improve;

(iii) aid each library in taking an active role to gain maximum community support;

- and
- (iv) provide a basis for collecting useful statistics for planning and evaluation;
 - (v) provide for additional accountability in the use of state aid monies in Montana libraries.

5. Concerned 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:

Karen Strege
Montana State Library
1515 East 6th Avenue
Helena, Montana 59620-1800

no later than September 17, 1999.

6. Karen Strege, State Librarian, has been designated to preside over and conduct the hearing.

7. All parties interested in receiving notification of any change in rules pertaining to this subject should contact the Rule Reviewer in writing at the address shown in five above.

8. The state library maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. 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 Public Library Grants, State Aid to Libraries, Federation Areas, State Library Services, Scholarship Program, or Depository Procedures for State Documents. Such written request may be mailed or delivered to Karen Strege, Montana State Library, 1515 East 6th Avenue, Helena, Montana 59620-1800, faxed to the State Library at (406) 444-5612, or may be made by completing a request form at any rules hearing held by the state library.

KAREN STREGE
State Librarian and Rule Reviewer

Certified to Secretary of State August 2, 1999.