

Date: July 8, 2005

To: Montana State Library Commissioners:

From: Darlene Staffeldt, Your State Librarian

Re: Some guidelines on the use of the listserv established for your use.

I have included with this guideline document the current text of the Montana Open Meeting laws as set forth in MCA 2-3-201 through MCA 2-3-221, because these statutes should always be our ultimate guideline as we use the listserv.

Guidelines for Use of the MSL Commission ListServ

The listserv is a communication tool to be used to help you communicate with each other. All communication posted on the listserv will go to all Commissioners and the State Librarian. The listserv will be like a continuing virtual retreat, a place where Commissioners can become better informed. Commissioners should be mindful that there is no expectation of privacy for listserv communications.

Please post to the listserv:

- Articles of interest to yourself that may be of interest to others;
- Schedules and/or schedule changes;
- Personal greetings

Can post as an FYI, no discussion allowed:

- Agenda and travel details for forthcoming meetings
- Specific questions and/or specific short answers to those questions. The key here is clarification versus persuasive testimony.

What we will not do on the Commission listserv:

- Discuss at length any matter over which the agency has supervision, control, jurisdiction, or advisory power.
- Take action upon any matter over which the agency has supervision, control, jurisdiction, or advisory power.

The State Librarian and/or the Chair of the Commission will monitor listserv communications and stop the continuation of any communication deemed inappropriate, which will also be made public (perhaps on Wired as well as in the minutes of the next meeting).

These guidelines will be published as an addendum to every meeting minutes.

The listserv will not be open to the participation of others; however a paper transcript will be made available upon request.

The listserv will be archived.

These guidelines prepared July 21, 2005, presented as draft to Commission on August 10, 2005.

Open Meeting laws from Montana Code Annotated (MCA)

2-3-201. Legislative intent -- liberal construction. The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

2-3-202. Meeting defined. As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency or association described in [2-3-203](#), whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public -- exceptions. (1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds must be open to the public.

(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public.

(3) Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

(4) (a) However, except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.

(b) A meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations described in subsections (1) and (2).

(5) Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business which is within the jurisdiction of that agency is subject to the requirements of this section.

2-3-204 through 2-3-210 reserved.

2-3-211. Recording. Accredited press representatives may not be excluded from any open meeting under this part and may not be prohibited from taking photographs, televising, or recording such meetings. The presiding officer may assure that such activities do not interfere with the conduct of the meeting.

2-3-212. Minutes of meetings -- public inspection. (1) Appropriate minutes of all meetings required by [2-3-203](#) to be open shall be kept and shall be available for inspection by the public.

- (2) Such minutes shall include without limitation:
- (a) date, time, and place of meeting;
 - (b) a list of the individual members of the public body, agency, or organization in attendance;
 - (c) the substance of all matters proposed, discussed, or decided; and
 - (d) at the request of any member, a record by individual members of any votes taken.

2-3-213. Void ability. Any decision made in violation of [2-3-203](#) may be declared void by a district court having jurisdiction. A suit to void any such decision must be commenced within 30 days of the decision.

2-3-214 through 2-3-220 reserved.

2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know. A plaintiff who prevails in an action brought in district court to enforce his rights under Article II, section 9, of the Montana constitution may be awarded his costs and reasonable attorneys' fees.