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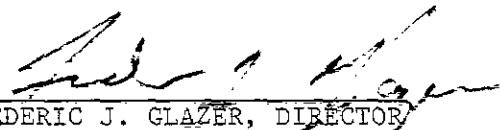
NOTICE OF PUBLIC HEARING OR COMMENT PERIOD ON PROPOSED RULE
COMMENT PERIOD

AGENCY: WEST VIRGINIA LIBRARY COMMISSION

RULE TYPE: EMERGENCY

RULE TITLE: SERIES I, SECTION 4. GRACE PERIOD FOR RETURN OF LIBRARY MATERIALS

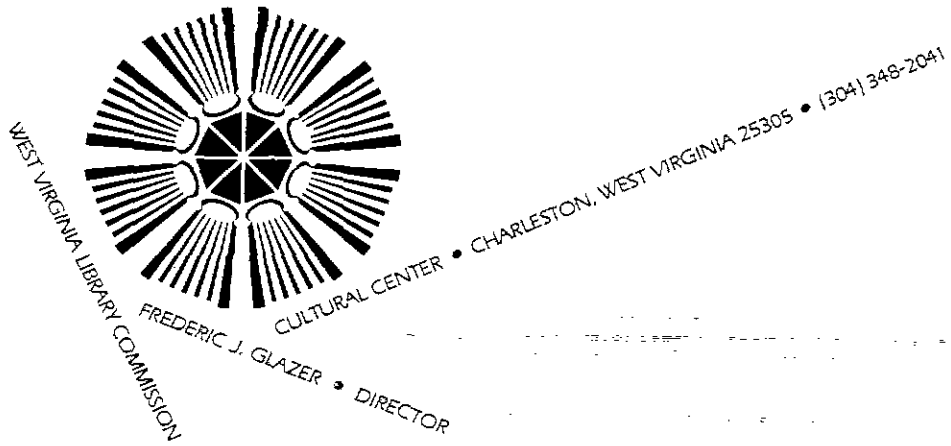
A COMMENT PERIOD ON THE ABOVE PROPOSED RULE HAS BEEN SCHEDULED AND WILL END ON AUGUST 20, 1985 AT 5:00 P.M. WRITTEN COMMENTS ARE TO BE MAILED TO THE FOLLOWING ADDRESS: WEST VIRGINIA LIBRARY COMMISSION, CULTURAL CENTER, CHARLESTON, WEST VIRGINIA 25305. THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.


FREDERIC J. GLAZER, DIRECTOR

SECRETARY OF STATE
OFFICE OF THE SECRETARY OF STATE

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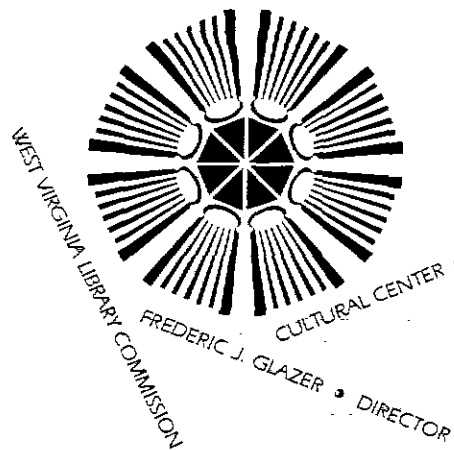


WEST VIRGINIA LEGISLATIVE RULES
WEST VIRGINIA LIBRARY COMMISSION

Chapter 10-1
Series I

Title: Rules of the West Virginia Library Commission

- Section 1 General
- 1.1 Scope - Chapter 10-1, Series I
 - 1.2 Authority - West Virginia Code, Chapter 10, Article 1
 - 1.3 Filing Date - July 21, 1985
 - 1.4 Effective Date - 30 days after July 21, 1985



Series I, Section 4. Grace Period For Return of Library Materials.

3.01 Grace Period. The following periods - National Library Week in April and Children's Book Week in November of each year are established as grace periods for public library patrons to return all or any overdue library materials without being subject to overdue fines, penalties, or other payments. Such grace periods are established with respect to Senate Bill 555. Any public library wishing to invoke said Act to recover articles which are considered within the scope of the willful retention of library property must observe the grace periods so previously stated.

Title 173

~~WEST VIRGINIA~~ LEGISLATIVE RULE
LIBRARY COMMISSION
SERIES *21*

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OFFICE OF THE CLERK
STATE OF WEST VIRGINIA

Title: Administrative Regulations

Section 1. General

1.1 Scope - Regulations for allocation and administration of library funds and system of auditing and reporting disbursements of those funds and establishment of grace period.

1.2 Authority and related Code citation - Chapter 10-1

1.3 Filing Date - March 26, 1986

1.4 Effective Date - March 26, 1986

Section 2. Regulations for use of funds for Public Library Service.

2.1 Basic Grants-in-Aid. Will be determined annually by the West Virginia Library Commission from State and Federal appropriations and will be made to the regional libraries and public library service centers (Library Systems). These libraries must have a plan approved annually by the Library Commission. Such grants-in-aid may be used for any public library in the area covered in the approved plan, but may be used only for the following purposes:

- 1.* salaries of professional librarians;
- 2.* salaries of library assistants who hold a bachelor's degree from an accredited college or university;
- 3.* salaries for all other personnel, i.e., bookkeepers, bookmobile drivers, clerks, janitors, etc.;
- 4.* books and other library materials;
- 5.* equipment;

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6. travel expenses for staff and library board members to attend meetings, workshops and conferences called by the Library Commission and any other professional institute, conference or extension activities approved by the library board;

7. audits required by the Library Services and Construction Act, when performed by the State Tax Commissioner, or any accountant appointed by the State Tax Commissioner;

8. matching payroll taxes, retirement matching and all other current operating expenses approved by the library board;

9. graduate fellowships for candidates for Master of Library Science degree subject to the following regulations:

1. must attend a school accredited by the American Library Association;

2. must hold a bachelor's degree from an accredited college or university;

3. amount of the grant to be determined by the sponsoring agency, but may not exceed the beginning salary for a Library Assistant, which has been approved by the West Virginia Civil Service Commission;

4. the grant will be made on the condition that the trainee agrees to return to the sponsoring agency for at least two years following receipt of the degree. If a position with the sponsoring agency is not available, the trainee may seek employment in any public library in West Virginia for two years. If no employment is available at a salary commensurate with the trainee's education, repayment of the grant may be waived at the discretion of the Library Commission; otherwise the grant must be repaid to the sponsoring agency;

5. applications to the public library board will be made on forms and in such manner as prescribed by the Library Commission;

6. grant payments may not exceed twelve months, or the academic year of the institution at which the trainee is enrolled, whichever is less;

7. the trainee must receive a degree from the library school within eighteen months, absent reason accepted by the Library Commission. For example, illness or illness in the family may delay or make it impossible to receive a degree. Payment may be waived if there is a reason which is acceptable to the Library Commission. If it is necessary for a grant to be repaid by a trainee, the Library Commission will make necessary adjustments in reports to the United States Government. In all cases possible, the Library Commission will credit the sponsoring agency with any funds which are not required to be refunded to the United States Government if the grant was originally made from the basic grant-in-aid.

2.2 Minimum requirements for public libraries to earn grants-in-aid. The Library Commission shall determine by evaluation visits and required reports whether public libraries meet the requirements of the West Virginia State Plan. Any library failing to meet such requirements shall not be eligible for grants-in-aid.

2.2.1 Requirements for public libraries to qualify as regional libraries, public library service centers (library systems) or designated recipients of grants-in-aid.

a. The public library must be organized and must operate under a legally-appointed library board in accordance with the West Virginia Code, Chapter 10, Article 1, Sections 1 through 11.

(1) Public library boards receiving appropriations from governing authorities must serve as a disbursing agent, as described in the West Virginia Code, Chapter 10, Article 1, Section 2, Paragraph 2.

(2) A public library organized under Chapter 10, Article 1, is defined in Section 9 as a corporation. As such, if the service center library board of directors desires coverage of employees, which designates the library board of directors as the coverage group, to the State Auditor. For coverage under the Public Employees Retirement System, the library board of directors must apply to the Public Employees Retirement System.

b. If the public library is organized and operating under a special law, that law must provide that:

(1) the library board members are appointed by one or more of the following governing authorities: county court, governing body of any municipality, county board of education;

(2) the library board members are appointed for specific terms and elects officers annually;

(3) the library board is governed by by-laws, rules and regulations which it has adopted for the administration, supervision and protection of the library and all property belonging thereto;

(4) the library board shall deposit and disburse through its designated bonded officer from the library board's bank account, all funds appropriated and collected for public library purposes; libraries designated by the Library Commission as Service Centers prior to January 1, 1969, excepted; and

(5) the library board is empowered to erect upon ground secured through gift or purchase an appropriate building for use of the library.

c. The designated public library or any regional library in operation prior to January, 1967, excepted, must assure the Library Commission that it has an operating budget from local funds (exclusive of capital expense) of \$1.00 per capita or \$25,000, whichever is greater.

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Through interim steps developed in consultation with the Library Commission, the public library must have an annual operating budget from local funds of \$2.00 per capita for the county population in which the library is located or \$75,000, whichever is greater, by 1975. A regional library must have an annual operating budget from local funds of \$1.00 per capita or \$50,000, whichever is greater, by 1975. Public libraries newly designated as grant-in-aid recipients must achieve the \$2.00 per capita within five years of first grant award.

d. At least 66-2/3 per cent of the operating budget must be available from tax funds.

e. The public library must have on the staff a full-time professionally-trained librarian. A service center or regional library not now meeting this requirement must meet such requirement by July 1, 1972. Such librarian must hold a degree in library science from a library school accredited by the American Library Association. Incumbent regional librarians as of July 1, 1967, will be considered professionally trained if they hold a bachelor's degree from an accredited college or university, have at least 30 hours in library science, and have been a regional librarian in West Virginia for at least five years. All service center libraries and all regional libraries must have at least two full-time professional librarians by July 1, 1975. All libraries receiving grants-in-aid must be open to the public a minimum of 40 hours weekly.

f. The librarian for the public library will be required to attend planning meetings, workshops and conferences called by the Library Commission.

g. The public library must provide free service to all residents of the area included in the plan submitted by the regional library or service center and approved by the Library Commission; and must provide advisory service and book credits to public libraries eligible under the plan.

h. The Library Commission will officially designate service centers and other qualifying public libraries for receipt of grants. All funds appropriated for library purposes must be administered and disbursed by the public library board so designated.

i. Local operational funds shall not be less than the amount received during the previous year. Grants are established to supplement service and are not intended to reduce the amount of local funding. Should local funding be less than in the preceding year, the library will be ineligible for grants-in-aid. Funds remaining in the library's account at the end of the fiscal year must be explained to the Library Commission in order to retain eligibility for grants-in-aid.

j. The mandatory functions of a regional library, service center and designated public library, where applicable, are as follows:

(1) to expend the grant-in-aid funds to benefit all residents of the area assigned;

(2) to file a plan for assisting each affiliate library located in the counties assigned, based on a joint agreement between the libraries. Said plan to be filed no less than 90 days after the beginning of the fiscal year (use forms WVLC 300 and WVLC 301);

(3) to operate a neighborhood-style bookmobile if service is requested by the local community and funds are available. Grant-in-aid funds may be used;

(4) To filter special requests for most interlibrary loans originating in the assigned area for bibliographic accuracy before turning to the statewide WATS lines or teletype. Emergency requests can be sent directly to the Library Commission;

(5) to employ a staff member as a resource librarian making, at least, quarterly visits to affiliate libraries. Said staff member would advise on library management details where needed. When more than 100,000 persons are served by a center library, a full-time resource person, professionally-trained, must be made available.

(6) to account for any amount of funds to assist with administration of the regional or service center library but, in no instance, shall this exceed 20 per cent.

(7) to offer a minimum of 40 hours of service at the headquarters library.

2.2.2 Requirements for public libraries which are not Regional, Service Center or Grant-in-aid Libraries.

a. The public library must be organized and must operate under a legally-appointed library board, in accordance with the West Virginia Code, Chapter 10, Article 1, Sections 1 through 11, or if the public library is organized under special law, that law must have the same provisions as are enumerated under 2.2.1 (b) of this section of the regulations.

b. The public library must have a minimum annual operating budget of \$5,000.

c. The public library must be open at least 30 hours per week.

d. The public library must purchase 200 recently published books per year, or pay personnel.

e. The public library must, in addition to buying 200 currently published books per year pay personnel at least minimum state wages.

f. The public library must be open free to all residents of the county.

g. The public library must be a member of a system which meets requirements under Section 1 of the regulations.

2.2.3 Provisions for Direct Public Library Service from the Library Commission.

a. The Library Commission staff will serve in the same capacity as a public librarian who manages a regional or service center for public libraries not meeting the requirements for regional or service centers and not a part of a system.

2.3 Financial Accounting, Regional Libraries and Library Service Centers (Library Systems). All accounting and fiscal procedures must include provisions and/or records, in a form acceptable to the Library Commission, to substantiate the following:

2.3.1 The fiscal year begins with the first day of July and ends with the thirtieth day of June.

2.3.2 No member of a public library board of directors is interested directly or indirectly in any claim or contract with the public library except for lawful compensation of expenses incurred. This should not mean that a board member may not be a stockholder, officer, or director of a bank designated as a depository for the public library.

2.3.3 The board of directors of the public library has designated an officer to perform the duties of the treasurer and has designated the professional librarian who manages the system as the financial clerk. The financial clerk has been authorized to delegate a staff member to perform the actual accounting. In the event either is temporarily incapacitated, the board may appoint one of its members to serve temporarily in either capacity.

2.3.4 A satisfactory minute book is used for recording minutes of meetings of the board. Minutes show board action on all expenditure schedules.

2.3.5 The financial clerk maintains a distribution ledger which records receipts and itemized payments by classification, as may be required for reporting to the Library Commission.

2.3.6 Provision is made for the signature of the treasurer and as many additional signatures as the library board may require on all voucher checks used in payment of all obligations of the library.

2.3.7 At least 30 days prior to ensuing fiscal year, an estimate of the receipts and appropriations (annual budget) has been prepared on forms prescribed by the Library Commission.

2.3.8 Amendments to the budget at any time during the fiscal year provide for appropriations from additional revenues received.

2.3.9 All incurred obligations in each fiscal year are within the amount authorized by the budget and amendments thereto.

2.3.10 All accounts of the library system are settled on or before July 30th.

2.3.11 Library funds are disbursed only on basis of itemized invoices submitted by claimants, and audited by the board, or the board has designated the financial clerk to audit all invoices before payment.

2.3.12 The payroll is duly certified by the financial clerk in accordance with rates approved by the library board.

2.3.13 If the library board members are reimbursed for travel expenses, such reimbursement is in accordance with rules adopted by the library board.

2.3.14 The treasurer's monthly report shows balance on hand at the beginning of month, receipts during month, withdrawals during month, and reconciliation with bank statement.

2.3.15 A quarterly report has been filed with the Library Commission by the fifteenth day of October, January, April, and July, showing receipts and expenditures for the preceding quarter.

2.3.16 All regional, service center and designated public library boards and grant-in-aid recipients in public library boards must maintain accounting records in the library business office, in a form which can be audited, and make them available to the Library Commission, or authorized representative of the State of West Virginia or United States Government on request.

2.3.17 An annual audit of the financial records of the library, either by the State Tax Commissioner or any accountant appointed by the Tax Commissioner. A copy of the audit report has been filed with the Library Commission on or before September 13th, or any extension of time approved by the Library Commission.

The library board must provide adequate filing equipment for protection, preservation and systematic arrangement of all paid and unpaid bills, cancelled checks, bank statements, debit charge slips, contracts and other financial records.

The library board will be required to file with the Library Commission, on forms prescribed by the Library Commission, a financial report of the preceding fiscal year within 45 days of the close of such fiscal year.

Application for grants-in-aid will be made on forms prescribed by the Library Commission and must be signed by the president of the library board and the Chairman of the Library Commission, when officially approved by the State Agency.

2.4 Supplementary Grants-in-Aid to Regional Libraries and Library Service Centers (Library Systems) and Designated Public Libraries. After basic grants-in-aid have been made, supplementary grants-in-aid may be made to regional libraries, service system centers and designated public libraries for the following purposes:

2.4.1 Training for State Agency Staff - a portion of the sum available in supplementary grants-in-aid may be expended directly by the State Agency to provide graduate training for qualified staff members. The State Agency will award the grant directly to the staff member. The amount of the grant shall be determined by the Library Commission, but may not exceed the beginning salary for a Library Assistant, as approved by the West Virginia Civil Service Commission. The same conditions as those outlined in Sec. 2.1, Item 9, a-g will be required, except that application will be made to the Executive Secretary and the trainee must return to the West Virginia Library Commission or a location appointed by the Library Commission. Civil Service regulations relating to the Library Commission staff shall also apply: Civil Service Regulations, Appendix A, Section 9, Educational Leave.

"An agency which subsidizes advanced educational training for state employees may grant educational leave to an employee selected for such training, subject to conditions stipulated by the agency concerned. Such leave shall be considered as continuous employment, except that employees, while on educational leave, shall not accrue sick or annual leave."

2.4.2 For special projects which will extend library service to the unserved or underserved.

2.4.3 For other programs and purposes - supplementary grants will be made by the Library Commission for other special purposes and needs as determined by the Library Commission to further the development of public libraries.

Section 3 Regulations for use of funds for Public Library Construction.

3.1 Eligibility - Library shall be defined as a "public library" in accordance with the definition of "public library services" in Federal Regulations Title 45 - Public Welfare - Chapter I, Office of Education: "Public library services...means library services provided by, or on behalf of a public library. The term does not include those library services that are properly the responsibility of the schools."

3.2 Priorities - priorities set by the Library Commission are as follows:

a. Construction to strengthen units within a library system;

b. Construction which will provide facilities when none now exist;

c. Construction which meets minimum American Library Association standards for space and location;

d. Construction in population growth area;

e. Construction in potential economic growth area;

f. Remodeling which is accompanied by a program statement prepared by a professional librarian;

g. Construction to provide housing for the Library Commission;

h. Construction grants will be made by the Library Commission for other special purposes and needs as determined by the Library Commission to further the development of public libraries.

3.3 Procedures

3.3.1 Certification will be required on forms prescribed by the Library Commission that the public library board has been appointed by one or more governing authorities and in such manner as to permit the Library Commission to enter into an agreement with the library board.

a. Provisions must be made for the library to operate under West Virginia Code, Chapter 10, Article 1, Sections 1 through 11; or

b. If the library is organized and operating under a special law, that law must include all the provisions listed in Section 2.2.1.B of these regulations.

3.3.2 Certification will be required, of the library board, of an operating budget to comply with Library Commission Regulations governing standards of service:

a. When total construction project costs as approved by the Library Commission are \$400,000 or more, the library must be managed by a professionally trained librarian; must be open 60 hours per week; must add by purchase at least 3,000 volumes a year; and must agree to serve as a service center library for at least a county area, if so designated by the Commission;

b. When total construction project costs as approved by the Library Commission are \$200,000 to \$399,000, the library must be managed by a college graduate with some library training or experience; must be open to the public 40 hours per week; must add by purchase at least 1,500 volumes per year; and must agree to operate as an integral member of a regional or service center system;

c. When total project costs as approved by the Library Commission are \$100,000 to \$199,000, the library must be managed by a staff member with at least two years of special training after high school, must be open to the public at least 30 hours per week; and must add by purchase at least 750 volumes per year. The board must agree to operate the library as an integral part of a regional or service center system;

d. All workers staffing the hours indicated in these standards must be paid no less than the State minimum wage scale.

3.3.3 A copy of the feasibility study is to be filed with the Library Commission if proposed construction is the expansion, remodeling or alteration of an existing building. Such study is to be done by a professional librarian or a registered architect.

3.3.4 A program statement must be prepared by the professional librarian for the system and submitted to the Library Commission with the project application.

3.3.5 Preliminary estimates of construction costs including architect's fees, site acquisition, new construction, expansion, remodeling or alteration of existing building, initial equipment, and contingency, are to be filed with the Library Commission.

3.3.6 An estimate of total project cost and a statement as to method to be used in providing additional funds, if needed, must be filed with the Library Commission.

3.3.7 A list of initial equipment is to be filed with the Library Commission.

3.3.8 There must be a certification by the library board to the Library Commission of all local funds available from tax levy, bonds and other sources for matching a grant from the Library Commission for this project, including the anticipated date of receipt of funds. An estimate and verification of all local funds available from tax levy, bonds, and other sources must be filed with the Library Commission.

3.3.9 A survey and description of the site is to be filed with, and approved by, the Library Commission.

3.3.10 The local library board must agree that construction contracts will be entered into within 365 days following State Agency's approval of project. Since all of West Virginia is eligible for assistance under Section 214 of the Appalachian Act, additional time may be granted to complete applications for funds under the Appalachian Act. Copies of all contracts for all work under the approved project must be filed with the Library Commission.

3.4 Opportunity for hearing - a local library whose application has been denied by the Library Commission will have an opportunity for a fair hearing before the State Agency. Written notice of disapproval will be forwarded to the local library board within 10 days following the Library Commission's action. Review of denied application will be made in the following manner:

Within 60 days after receiving notice of the Library Commission's action, a library board may request a review by a mediation committee composed of three professionally trained librarians employed in West Virginia, one to be appointed by the Library Commission, one to be appointed by the President of the Library Association, and one to be appointed by the library board making the request. No member of the mediation committee can be a member of the regular staff of the Library Commission, nor connected in any way with the library board making the request. The mediation committee will make such recommendations as deemed proper to the Library Commission. The Library Commission will review the denied application and the recommendations of the mediation committee. Written notice of its decision on the application under review will be forwarded to the library board concerned within a reasonable time. This decision shall be final.

3.5 Conformance with the requirements of pertinent Federal Wage and Contract Work Hours Standards Acts. The Library Commission will require assurance that all laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under the Library Services and Construction Act, will be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and will receive overtime compensation in accordance with, and subject to, the provisions of the Contract Work Hours Standards Act.

3.6 Financial Accounting.

3.6.1 Local matching funds for construction will be deposited in an account separate from all other funds. A certification by the bank as to the amount of these funds and certification that these funds are free from encumbrances must be furnished to the Library Commission.

3.6.2 Payment of Federal and State matching funds on a construction project will be made to local library boards after approval of invoices by the Library Commission and the State Auditor. All contracts should specify that bills will be paid 30 days after invoice. However, local library board must be prepared to meet payments.

3.6.3 A request for a Federal and State share will be made on forms prescribed by the Library Commission.

3.6.4 A retainage of 10% will be withheld from the Federal and State share of each construction project. The creditor's invoice should reflect the total amount due in order to prevent duplication of the retainage.

3.6.5 A copy of weekly payrolls with the required certification in regard to anti-kickback provisions of the Copeland Act must be kept on file by the owner. These payrolls will be checked by the owner against the minimum wage determination for the project and will be reviewed periodically by the Library Commission. Periodic on-the-job interviews will be made by the Library Commission to assure compliance with Federal Regulations. A copy of this interview will be at the Library Commission. Copies of weekly payrolls will be filed by the owner. A copy of the labor interview will be forwarded to owner for filing with the payroll for the week.

3.6.6 The portion of the architect's fee, which is paid for supervision, must be based on that portion of the "contract completed" at the date of the request.

3.6.7 Any change from the original construction contract must be made by a formal "change order" accompanied by a letter of authorization by the library board's president. If the change or addition required additional funds over and above the approved budget, the local library board must certify that the additional funds are available.

3.6.8 All initial equipment purchased under the project must be put on inventory, and a copy of the inventory must be filed with the Library Commission.

3.6.9 The 10% retainage from Federal and State share will be paid only after local architect's certification of completion of the construction contract and after an audit report by the State Tax Commissioner, and independent CPA or Registered Public Accountant is filed with the Library Commission. This audit will be made at the expense of the library board and may be a part of the total project cost.

3.6.10 All records pertaining to a construction project must be kept by the owner for at least three years after completion of the project, or until notification that the Office of Education has made a fiscal audit, whichever is later. These records must be made available to the Library Commission or authorized representative of the State of West Virginia or United States Government on request.

Section 4. Grace Period for Return of Library Materials.

4.1 Each year in April designated National Library Week by the American Library Association and the week in November designated Children's Book Week by the Children's Book Council, Inc. are established pursuant to West Virginia Code, 10-1-11, as grace periods during

which time library patrons may return any overdue library materials without being subject to prosecution under West Virginia Code, 10-1-11, or any fine, penalty or other payment.

Section 5. Definitions

5.1 "Basic Grants-in-Aid" means grants awarded on a per capita basis for public library service.

5.2 "Supplementary Grants-in-Aid" means additional grants awarded to public libraries meeting requirements for basic grants-in-aid but after such basic grants have been made.

5.3 "A Library System" is a coordinated group of public libraries. A main library, or regional library center, managed by a professional librarian, offers services, usually under an approved plan, to neighboring communities and libraries. These libraries in turn reciprocate through contractual arrangements or cooperative projects.

5.4 "Service Center" is a public library managed by a professional librarian. The service center has a minimum operating budget of \$1.00 per capita or \$25,000, whichever is greater, two-thirds of which is from tax sources, and provides free service to residents of the area included in the plan submitted to the Library Commission.

5.5 "Book Credits" means the number of new books available to a public library when meeting minimum requirements in State Regulations.

5.6 "Community Library" is a library which is operated by a community organization, does not operate under a board of directors in accordance with requirements in West Virginia Administrative Regulations, Library Commission, Chapter 10-1, Series I (1967), Sec. 2.2.3, but still offers free service to the public.

5.7 "Direct Service" means service performed by the State Agency which ordinarily would be performed by a public library. The term also means service to an individual or community without public library service.

5.8 A "Regional Area" is a geographical area in which library service is performed. A service center or regional center usually coordinates a service. A "regional area" may also be interstate as well as intrastate in emphasis. For example, regional service to the blind is performed for West Virginia from a regional center in Pennsylvania. A regional area may mean the whole state when a specific project is conducted which involves several types of libraries.

5.9 "Affiliate Library" is a public library assigned by the Library Commission to a regional and/or service center library for assistance from state grants-in-aid. Affiliates differ from branch libraries in that they have their own management boards and local funds for operation.

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5.10 "Administrative Funds" means those funds used to maintain and operate the physical plant, such as utilities, insurance and accounting.