

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Library Commission TITLE NUMBER: 173

CITE AUTHORITY: West Virginia Code Chapter 10

AMENDMENT TO AN EXISTING RULE: YES NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Series 1

TITLE OF RULE BEING PROPOSED: Administrative Regulations

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

**TITLE 173
LEGISLATIVE RULE
LIBRARY COMMISSION
SERIES 1
ADMINISTRATIVE REGULATIONS**

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1.1. Scope. -- This legislative rule establishes requirements and procedures for allocating and administrating state appropriated funds that are distributed by the West Virginia Library Commission and are used to develop and enhance library services in the state. These regulations apply to public libraries established according to WV Code Chapter 10-1-1, unless otherwise specifically provided for in a special library law.

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1.2. Authority. -- W. Va. Code §10-1.

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1.3. Filing Date. -- MM/DD/YY

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1.4. Effective Date. -- MM/DD/YY. Section 3.4 will be implemented in the fourth fiscal year following passage of this rule. In the first three fiscal years following passage of this rule, Grants-In- Aid will be awarded at the maximum amount to every library meeting all other requirements.

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§173-1-2. Definitions.

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2.1 Administrative Fees -- Outlay for administrative and support services including, but not limited to, professional librarian advice, personnel assistance, fiscal management, planning, program management, and public relations.

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2.2 Audit -- An annual examination of the financial records of the public library completed in full accordance with generally accepted accounting procedures for governmental agencies and performed by an accountant appointed by the State Auditor.

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2.3 Board of Library Directors -- The administrative authority of a public library. The board of library directors consists of five members appointed to staggered terms unless other provision is made by a special library law. Each member is called a library trustee.

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2.4 Budget -- An itemized summary of estimated income and expenditures for a specific period.

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2.5 Collection Development -- A planned process of selecting, acquiring, and managing library materials to meet the needs of a library's community.

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2.6 Community Library- A library that offers services to the public but is not established according to Chapter 10-1-1.

2.7 Consortium – A formal cooperative established and developed to improve library services and resources. It may be restricted by geographical area, established for specified purposes, initiated by the West Virginia Library Commission or initiated by a library. It requires formal agreements concerning purpose, membership, administration and procedures and may include non-library entities. Libraries may enter into any number of consortia agreements that meet the definition of this rule and may request formal approval by the Library Commission.

2.8 Continuing Education – Activities, including attendance at workshops and conference, for the purpose of maintaining and increasing job-related competence.

2.9 Fiscal Year (FY) – A 12-month accounting period based on the budget of the State of West Virginia.

2.10 Governing Authority – County commission, county board of education, or municipal governing body.

2.11 Grants to Public Libraries – Awards determined annually by the West Virginia Library Commission from funds appropriated by the Legislature for distribution to public libraries. Grants are to enhance library services, not to reduce local funding. Grants to Public Libraries include:

Grants-in-Aid – Funds distributed on a per capita basis to all qualifying public libraries.

Other grants -- Funds awarded from any balance in the Grants to Public Libraries appropriation or from any other funds designated by the Library Commission.

2.12 Interlibrary Loan – A transaction in which library material, or copies of material, is loaned by one library to another for the use of a patron.

2.13 Legal Service Population – The number of people in a geographic area assigned to a public library by the Library Commission.

2.14 Library Director – The individual hired by the board of library directors to administer the total library program.

2.15 Library Support Staff -- All paid staff who assist with the delivery of library services and programs; does not include janitorial staff.

- 94 **2.16 Local Funds** - revenue received from local sources for operating
95 expenditures of the public library. Local tax based revenue includes all local
96 government funds designated by the county commission, board of education, or
97 municipality for the public library. Non-tax based local revenue includes all other
98 funds such as monetary donations, interest, library fines, fees for library services,
99 or grants.
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- 101 **2.17 Maintenance of Effort** – A specified level of financial effort that is required
102 by a library over a designated time period in order to receive grants.
103
- 104 **2.18 Minutes** – The official record of a meeting of the board of library directors.
105 Minutes show date, time and place of the meeting, names of those attending,
106 actions on all motions and expenditures, corrections to previous minutes, and
107 other information determined to be necessary. Minutes are signed by the
108 secretary.
109
- 110 **2.19 Operating Expenditures** – Costs of providing on-going library services.
111 Operating expenditures do not include capital outlay or one-time projects.
112
- 113 **2.20 Patron** – Any person who uses the resources and services of a library, not
114 necessarily a registered borrower.
115
- 116 **2.21 Policy** – A statement that articulates principles of operation for the library.
117 The board of library directors must formally adopt all policy statements.
118
- 119 **2.22 Professional Librarian** – An individual who has received a Master's degree
120 from a program accredited by the American Library Association.
121
- 122 **2.23 Public Library** -- A library established in accordance with WV Code Chapter
123 10-1-1 and in compliance with these Administrative Regulations, having paid
124 staff, an organized collection, an established schedule in which services of the
125 staff are available to the public, and the facilities necessary to support such a
126 collection, staff, and schedule. A public library may consist of a single facility or
127 multiple facilities.
128
- 129 **2.24 Quorum** –The minimum number of library trustees who must be present at
130 a meeting for business to be legally conducted. Unless otherwise defined by a
131 special law, a quorum is three.
132
- 133 **2.25 Service Center Library** – A library that provides professional and
134 management services to libraries assigned to it by the Library Commission.
135
- 136 **2.26 Services to Libraries Grants** -- Funds distributed to Service Center
137 libraries to assist in providing those services specified in this rule.
138

139 **2.27 Special Library Law** – A law, approved by the West Virginia Legislature,
140 which specifies local funding appropriations to the public library. It may also
141 establish the public library and provide for appointment of library trustees.
142

143 **§ 173-1-3 Requirements for Receiving Grants**
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145 **3.1** The public library is organized and operates in accordance with W. Va. Code
146 § 10-1-1 et seq. or a special library law that meets the minimum requirements in
147 the code.
148

149 **3.2** The public library receives local funding to support its operations.

150 **3.3** Local funds received in the previous fiscal year equal or exceed the
151 maximum Grant-in-Aid established for the library. Local non-tax based funds
152 used as matching funds cannot exceed the amount of local tax based funds.
153

154 **3.4** Local operating expenditures for the previous fiscal year are equal to, or
155 greater than, the average of the total local operating expenditures for the three
156 fiscal years preceding that previous fiscal year. All funds included in the
157 maintenance of effort calculation shall be expended in the fiscal year for which
158 the determination is made and shall not include capital expenditures, special
159 one-time project costs, or similar windfalls.
160

161 **3.5** The board of library directors is the disbursing agent for appropriations
162 received from governing authorities as described in W. Va. Code §10-1-2.
163

164 **3.6** The accounting and fiscal procedures of the public library shall be conducted
165 under the management, direction and control of the board of library directors
166 which may delegate to the library director or to any other employee or duly
167 designated agent such duties and functions as it deems appropriate.
168

169 **3.7** The accounting and fiscal procedures of the public library, unless otherwise
170 provided for in a special library law, include the following:
171

172 **3.7.a.** The fiscal year of the State of West Virginia is used for reporting to
173 the Library Commission.
174

175 **3.7.b.** The board of library directors annually elects a treasurer to perform
176 or oversee all financial operations.
177

178 **3.7.c.** Provision is made for at least two signatures, one of which must be
179 a library trustee, on all checks used in payment of library financial
180 obligations. All those with signature authority must be bonded at the
181 expense of the board of library directors.
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183 **3.7.d.** The board of library directors approves all adjustments to the
184 budget.

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3.7.e. All accounts of the library are settled within thirty (30) days after the close of the fiscal year.

3.7.f. Library funds are disbursed based on itemized invoices verified by the party duly authorized by the board of library directors.

3.7.g. The payroll is prepared in accordance with budgeted amounts approved by the board of library directors.

3.7.h. All accounting records are readily available in a form which can be audited or reviewed by the Library Commission or authorized representatives of the State of West Virginia or United States Government. The annual audit or review is filed with the Library Commission within 30 days of the receipt of the audit.

3.7.i. A financial report of the preceding year is filed within 45 days from the end of that year on forms provided by the Library Commission.

3.8 The public library submits, by the beginning of the fiscal year, an application for Grant-in-Aid on a form provided by the Library Commission.

3.9 The public library submits, by the beginning of the fiscal year, a spending plan for the use of the state Grant-in-Aid and an annual budget on forms provided by the Library Commission.

3.10 The board of library directors employs a full-time professional librarian to direct the operations of the library and to participate in meetings, workshops and conferences for which the Library Commission requires attendance.

3.11 The board of library directors meets at least four times annually with a quorum present. All boards of library directors are subject to the provisions of the Open Governmental Proceedings Act, WV Code, Chapter 6, Article 9A.

3.11.a. Approved minutes are forwarded within thirty (30) days to the Library Commission, or if applicable, to the Service Center Library.

3.11.b. A report showing the status of all accounts, funds and expenditures is presented for review and approval at meetings of the board of library directors or board finance committee.

3.11.c. Policies covering library operations, collection development, personnel, and technology are formally adopted and forwarded to the Library Commission.

230 3.11.d. As determined by the scope of the plan, the public library regularly
231 submits to the Library Commission a development plan for at least three
232 years and no more than five years.

233
234 3.11.e. No member of a board of library directors is involved in any claim
235 or contract with the public library. This does not mean that a library trustee
236 may not be a stockholder, officer, or director of a bank designated as a
237 depository for the public library.

238
239 3.11.f. Reimbursement of travel expenses for library trustees is in
240 accordance with policies adopted by the board of library directors.

241
242 **3.12** The library director completes no fewer than eight (8) hours of continuing
243 education per year. All other full time library support staff complete no fewer
244 than three (3) hours of continuing education per year.

245
246 3.12.a. Continuing education hours must be approved in advance by the
247 Library Commission.

248
249 3.12.b. Staff of a library assigned to a Service Center Library is required to
250 attend the annual staff development workshop sponsored by the Service
251 Center.

252
253
254 **3.13** The public library is open a minimum number of hours weekly based on the
255 legal service population ranges below.

256
257 3.13.a. Fewer than 6000 – 25 hours

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259 3.13.b. 6000-15,000 – 30 hours

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261 3.13.c. More than 15,000 – 40 hours

262
263 **3.14** The public library is open to the public at least six hours per week that are
264 either before 9 a.m., after 5 p.m., or on Saturdays or Sundays.

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266 **3.15** The public library provides free service to residents except as provided for in
267 Chapter 10 of the West Virginia Code.

268
269 **3.16** The public library provides public access to informational services and
270 programs provided by the Library Commission at no cost to libraries.

271
272 **3.17** The public library agrees to share resources with other libraries in the state,
273 according to local interlibrary loan policy and guidelines endorsed by the Library
274 Commission.

275

276 3.18 The public library designates National Library Week and Children's Book
277 Week or any other two weeks annually as grace periods during which no fines or
278 penalties are assessed for overdue materials.
279

280 **§173-1-4 Non-Compliance with Requirements**

281
282 4.1 The Library Commission shall determine by review of required reports and
283 evaluation visits whether a public library meets eligibility requirements.
284

285 4.2 A library not directed by a professional librarian will be assigned by the
286 Library Commission to a Service Center Library.
287

288 4.3 If the maintenance of effort requirement (3.5) is not met, the Grant-in-Aid
289 shall be reduced by a percentage equal to the percentage of the unmet
290 maintenance of effort.
291

292 4.4 Failure to meet any requirements other than those described in sections 3.3
293 and 3.4 of this rule, will result in the public library forfeiting a portion of its Grant-
294 in-Aid. Such portion will be determined by the Library Commission.
295

296 **§173-1-5 Waiver of Requirements**

297
298 5.1 Eligibility requirements may be waived if the Library Commission determines
299 that a waiver is necessary due to exceptional or uncontrollable circumstances,
300 such as a natural or man-made disaster or a precipitous decline in the financial
301 resources of a governing authority.
302

303 5.2 The board of library directors requests a waiver by notifying the Library
304 Commission in writing of any extraordinary circumstances and the fiscal year
305 affected. A waiver is granted for one year. The maximum number of consecutive
306 years for which a waiver may be granted for the same situation is three (3).
307

308 5.3 The board of library directors and staff must work with the Library
309 Commission to develop and implement a recovery plan.
310

311 5.4 The Library Commission determines the amount of any Grant-in-Aid
312 distributed to a library on a waiver.
313

314 **§173-1-6 Regulations For Use Of Grants-in-Aid**

315
316 6.1 The Library Commission determines annually, on a per capita basis, the
317 maximum Grant-in-Aid for each library. Each library must submit, by the
318 beginning of the fiscal year, a Grant-in-Aid expenditure plan to the Library
319 Commission for approval.
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6.2 Grants-in-Aid may be used for the following purposes only:

6.2.a. Salaries, wages, and benefits; all staff must be paid no less than state or federal minimum wage, whichever is higher;

6.2.b. Library materials;

6.2.c. Equipment;

6.2.d. Travel expenses for library director, staff and library trustees to attend meetings, workshops and conferences and any other library-related activities approved by the board of library directors;

6.2.e. Bookmobiles;

6.2.f. Audits required by state or federal law or regulation;

6.2.g. All other current operating expenses approved by the board of library directors;

6.2.h. Fellowships for graduate and undergraduate degrees when there exists between the sponsoring public library and the recipient of the fellowship a written agreement that includes, but is not limited to, the following:

6.2.h.1. The fellowship recipient must be an employee of the sponsoring public library;

6.2.h.2. A candidate for a graduate fellowship must attend a school accredited by the American Library Association;

6.2.h.3. The amount the sponsoring public library will pay for classes;

6.2.h.4. The expected completion date;

6.2.h.5. The trainee must agree to return to the sponsoring public library for at least two (2) years following receipt of the degree;

6.2.h.6. The trainee may be permitted by the sponsoring public library to substitute employment in any public library in West Virginia for two (2) years if a position is not available with the sponsoring public library. 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 sponsoring library with approval from the Library Commission.;

368
369 6.2.h.7. If repayment of the grant is not waived by either the
370 sponsoring public library or by the Library Commission, the grant
371 must be repaid to the sponsoring public library.
372

373 **§173-1-7. Service Center Libraries**

374
375 **7.1 A Service Center Library** ensures that professional librarian expertise is
376 available to each public library. The Library Commission may assign a library
377 to a Service Center Library if required reports or evaluation visits indicate
378 need.
379

380 **7.2. Responsibilities of a Service Center Library are:**

381
382 7.2.a. To reach a formal agreement with each consortium member
383 regarding assistance provided with the Services to Libraries Grant or
384 administrative fee;
385

386 7.2.b. To file, by the beginning of each fiscal year on forms provided by the
387 Library Commission, a plan for assisting each assigned library, based on
388 the formal agreement between the libraries;
389

390 7.2.c. To employ a full-time professional librarian in addition to the director;
391

392 7.2.d. To visit each assigned library four times a year, including one board
393 meeting, and to present at least one staff development workshop annually;
394

395 7.2.e. To evaluate the collections, fiscal management, and operations of
396 each assigned library and report the results annually to the library with a
397 copy to the Library Commission;
398

399 7.2.f. To account for funds or administrative fees used to assist assigned
400 libraries. Administrative fees must be approved by the Library
401 Commission and may not exceed twenty percent (20%) of the Grant-in-Aid
402 for each assigned library.
403

404 **7.3.** The Library Commission will evaluate periodically the performance of each
405 Service Center library. Failure of a Service Center Library to meet the
406 responsibilities of 7.2 may result in the Service Center forfeiting a portion of
407 funds received from the Library Commission or administrative fees, or, in the
408 reassignment of libraries.
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414 **§173-1-8. Other Grants**

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8.1. The Library Commission may distribute other grants that further library service in the state. Any public library is eligible to apply for these grants. Grant priorities and qualifications are determined annually by the Library Commission.

8.2. Construction grant applications must meet minimum standards identified by the Library Commission for:

8.2.a. New construction

8.2.b. Expansion

8.2.c. Renovation, including

8.2.c.1. Handicapped access

8.2.c.2. Safe working conditions

8.2.c.3. Public safety

8.3. An application for a Construction Grant will be on forms provided by the Library Commission and will include, but not be limited to, the following:

8.3.a. Project budget, including a history of local funding for the most recent five (5) years;

8.3.b. Certification by board of library directors of all local funds available for this project. Certification includes the source of the funds, the anticipated date of receipt of funds and the method to be used to provide any additional funding needed;

8.3.c. Timeline for the project;

8.3.d. Current status of the building program, architectural development, site acquisition, and fund raising;

8.3.e. Long range plan for use of the proposed, expanded or renovated facility;

8.3.f. Statement of ownership of the new building;

8.3.g. A feasibility study if proposed construction is the expansion, remodeling or alteration of an existing building. Such study is to be done by an AIA registered architect;

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8.3.h. A survey and description of the Library Commission approved site;

8.3.i. Project summary including descriptions of the current facility and the new facility comparing total square footage and space needs for public service areas, staff work space, and collection, meeting room, parking, and non-assignable spaces;

8.3.j. Description of how the project will benefit the legal service area and provide better library service, as well as information about current services.

8.4. Construction contracts must be entered into within three hundred sixty-five (365) days following the Library Commission approval of the grant request.

8.5. Assurance must given to the Library Commission that, for all construction projects assisted through this grant, all laborers and mechanics employed by contractors or subcontractors will be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the U.S. Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and that covered workers will receive overtime compensation in accordance with, and subject to, the provisions of the Contract Work Hours and Safety Standards Act and any other applicable state or federal law.

8.6. Additional reports must be submitted as requested by the Library Commission during the project.

8.7. Financial accounting

8.7.a. Local 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;

8.7.b. Payment of federal and state funds on a construction project will be made to the board of library directors after approval of invoices by the Library Commission and the State Auditor. All contracts should specify that bills will be paid thirty (30) days after invoice. However, the board of library directors must be prepared to meet payments,

8.7.c. Request for a federal or state share will be made on forms provided by the Library Commission;

507 8.7.d. A retainage of ten percent (10%) will be withheld from the
508 federal and state share of each construction project. The creditor's
509 invoice should reflect the total amount due in order to prevent
510 duplication of the retainage;
511

512 8.7.e. The general contractor or equivalent must keep on file a copy
513 of weekly payrolls with the required certification in regard to anti-
514 kickback provisions of the Copeland Act. These payrolls will be
515 checked by the general contractor or equivalent against the
516 minimum wage determination for the project and will be reviewed
517 periodically by the Library Commission. Periodic on-the-job
518 interviews will be made by the Library Commission to assure
519 compliance with federal regulations. A copy of this interview will be
520 on file at the Library Commission. A copy of the labor interview will
521 be forwarded to the general contractor or equivalent for filing with
522 the payroll for the week. The general contractor or equivalent will
523 file copies of weekly payrolls;
524

525 8.7.f. The portion of the architect's fee, which is paid for
526 supervision, must be based on that portion of the "Contract
527 Completed" at the date of the request;
528

529 8.7.g. Any change from the original construction contract must be
530 made by a formal "Change Order" accompanied by a letter of
531 authorization by the president of the board of library directors. If the
532 change or addition requires additional funds over and above the
533 approved budget, the board of library directors must certify that the
534 additional funds are available;
535

536 8.7.h. The ten percent (10%) retainage from the federal and state
537 share will be paid only after local architect's certification of
538 completion of the construction contract and after an audit by an
539 auditor approved by the Library Commission is filed with the Library
540 Commission. This audit will be made at the expense of the board of
541 library directors and may be a part of the total project cost;
542

543 8.7.i. All records pertaining to a construction project must be kept
544 by the board of library directors for at least three (3) years after
545 completion of the project, or as directed by any applicable federal
546 legislation. These records must be made available to the Library
547 Commission or authorized representative of the State of West
548 Virginia or United States Government on request.
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553 **§173-1- 9. Establishing New Libraries**
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555 **9.1.** Representatives of a community interested in establishing a public library
556 contact the Library Commission and provide the following information:

557
558 9.1.a. What area the library will serve;

559
560 9.1.b. How the operations of the library will be funded;

561
562 9.1.c. The expected effect of the new library on existing libraries in the
563 area;

564
565 9.1.d. Comparison of services of the new library to services of existing
566 libraries in the area;

567
568 **9.2.** To qualify for state funds, a newly established public library must:

569
570 9.2.a. Be established according to West Virginia Code Chapter 10-1-1;

571
572 9.2.b. Comply with Library Commission Administrative Regulations;

573
574 9.2.c. Develop a plan for library service using advice and continuing
575 education from the Library Commission.
576

577 **9.3.** After meeting requirements for state funds, the newly established public
578 library will be assigned to a Service Center Library.
579
580

581 **§173-1- 10. Appeal Process**
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584 **10.1.** Any appeal of a decision related to the Administrative Regulations shall be
585 submitted in writing to the Chairman of the Library Commission and the
586 Secretary of the Library Commission.
587

588 **10.2.** The appeal shall include the following:

589 10.2.a. Name and address of the library

590 10.2.b. Statement of the decision being appealed

591 10.2.c. Signatures of the Library Director and president of the board of
592 library directors.

593 10.2.d. Supporting documentation

594 10.2.e. Resolution sought
595

596 **10.3.** Failure to submit any of the above shall delay the consideration of the
597 appeal by the Library Commission.
598

- 599 **10.4.** The Secretary will review each appeal and determine if it has been
600 adjudicated previously. If not, The Secretary will place the appeal on the agenda
601 for the next regular meeting of the Library Commission and inform the appellant.
602
- 603 **10.5.** The appellant shall inform the Secretary if a brief oral presentation will be
604 made at the Commission meeting. Presentations must be limited to ten minutes
605 unless extended by action of the Commission.
606
- 607 **10.6.** The Library Commission shall review the appeal and issue a decision no
608 later than the next regular meeting.

**TITLE 173
LEGISLATIVE RULE
LIBRARY COMMISSION
SERIES 1
ADMINISTRATIVE REGULATIONS**

Circumstances Requiring the Revision

The existing regulations contain confusing, outdated, and redundant language. Some of the requirements are based on conditions that no longer exist while new situations are not addressed. The existing regulations have been patched to the point that, in some parts, it is hard to determine the original intent.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 173

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Library Commission

Address: 1900 Kanawha Blvd. E.
Culture Center
Charleston, WV 25301

Phone Number: 304-558-2041 Email: waggoner@wvlc.lib.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The major impact of these rules will be on the delivery of grants to libraries. There will be no impact on state revenues. The dollars granted are currently in the budget.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Library Commission Administrative Regulations

Rule Title: Title 173

- 3. Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The funding for this line item is determined each year by the Legislature. The proposed rules will not change any dollar amounts or obligations for the State.

Date: _____

Signature of Agency Head or Authorized Representative

**TITLE 173
LEGISLATIVE RULE
LIBRARY COMMISSION
SERIES 1
ADMINISTRATIVE REGULATIONS**

1.1. Scope. -- This legislative rule establishes requirements and procedures for allocating and administering state appropriated funds distributed by the West Virginia Library Commission to develop and enhance library services in the state. These regulations apply to public libraries established according to WV Code Chapter 10-1-1, unless otherwise specifically provided for in a special library law.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: May 23, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Library Commission
Cultural Center
1900 Kanawha Blvd., East
Charleston, WV 25305

LEGISLATIVE RULE TITLE: Library Commission Administrative Rules

1. Authorizing statute(s) citation West Virginia Code 10-1

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
March 3, 2006

b. What other notice, including advertising, did you give of the hearing?

In January 2006, the tentative date of the public hearing was posted on the WVLC web site as part of the Administrative Regulations Tentative Timeline. When the date was firm, this was announced on the web site and a memo was mailed by standard mail and email to all public library directors on 3/6/06. The date was also announced in the bi-weekly WVLC Electronic News Bulletin on 2/24/06 and 3/17/06. A press release announcing the date was sent to major media outlets on 3/6/06.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
March 31, 2006

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

May 23, 2006

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Karen Goff, Director of Library Development Services

West Virginia Library Commission

Cultural Center

1900 Kanawha Blvd., E.

Charleston, WV 25305

Phone: 304-558-3978 Fax: 304-558-1612

Email: goffk@wvlc.lib.wv.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

WEST VIRGINIA LIBRARY COMMISSION PUBLIC HEARING
MARCH 31, 2006

Judy Rul
Fluye Fuller

Ann FARR

CHARLES A. JULIAN

Connie Sutter

Pamela K. Coyle

Joan Quinn

Sharon Sumner

Jan McMillion

Oliver Beard

Cecilia K. Dallis

Carol McClung

Ann Ella Martin

Emylee Seese

Theresa J. Prunty

Judy Hunsault

Ronald McGinn

Suzette Sims

Margaret Smith

Annica Kumber

Cathy Eastham

Dottie Thomas

Sharon Tays

Arusta Jones

Lesa Kelley

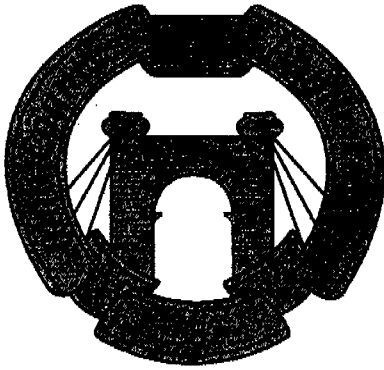
Debbie Goddard

Brian E. Raitz

**Public Hearing Pre-Registration
Administrative Regulations**

Date/Time Received	3-30-06 4:45 p.m.		
Name	Dottie Thomas		
Address	52 16 th Street		
City	Wheeling		
State	WV	Zip 26003	
Telephone	304 232-0244	E-Mail Address	
Library/Org. Representing	Wheeling Public Library		
Summary of Proposed Testimony	In support of funding 3.4 and 3.5 in support of funding		
<input checked="" type="checkbox"/>	I will provide a complete written copy of comments.		
<input type="checkbox"/>	I will not provide a complete written copy of comments.		

Speaker



Ohio County Public Library
52 16th St.
Wheeling, WV 26003

Phone:(304) 232-0244
Fax: (304) 232-6848
ocplweb@weirton.lib.wv.us
http://wheeling.weirton.lib.wv.us

March 30, 2006

J.D. Waggoner, Secretary
West Virginia Library Commission
Cultural Center
1900 Kanawha Blvd., E.
Charleston, WV 25305

Karen Goff, Director
Library Development Services
West Virginia Library Commission
Cultural Center
1900 Kanawha Blvd., E.
Charleston, WV 25305

Dear Mr. Waggoner and Ms.Goff,

I would like to address the West Virginia Library Commission today concerning the issue of funding requirements for public libraries in West Virginia. West Virginia ranks 50th in the nation in local funding support of public libraries. Of the 97 public library systems in the state only 11 have special dedicated funding laws, and of those 11 laws it could be argued that only eight provide adequate funding. The lack of specific local funding requirements has meant that local library boards and library directors are left every fiscal year with no choice but to approach local funding bodies, county commissions and boards of education, with "hat in hand" to politely ask for funds to operate the public library. For too many years now we have seen the meager results of this method of securing funds for public libraries. It has failed to even begin to adequately fund most of the 97 public libraries in the state. Furthermore, the lack of assurance of local funds from year to year, has left library boards and library directors unable to plan for future services, programs, materials acquisition, or facilities. In light of this dire situation, it is imperative that the West Virginia Library Commission attempts to improve funding for public libraries in the state; therefore I am supportive of the agency's effort to increase local funding as detailed in §173-1-3.3. and §173-1-3.4 of *Working Draft #3* of its Administrative Rules & Regulations.

In 1999, Himmel & Wilson Library Consultants released the results of their *Directions 2000* study commissioned by the West Virginia Library Commission for the purpose of identifying and defining directions for future library services in the year 2000 and beyond in the state. The final report addressed several areas of library service, one of which was funding. The consultants recommended "the development and pursuit of a 'partnership' funding strategy aimed at increasing both State and local funding for public libraries." As a follow-up to the Himmel & Wilson report, the West Virginia Library Association undertook a Planning Process in 2001 that studied the same areas of library service as Himmel & Wilson. The goal of the Planning Process was to develop a Long Range Action Plan for libraries and library services in West Virginia. One of the six subcommittees of this Planning Process was Funding. This subcommittee recommended seeking dedicated funding for all public libraries in the state. The Funding Subcommittee's report recognized that without adequate funding, public libraries

were unable to provide quality services, collections or access to quality electronic resources within adequate facilities by qualified staff. Thus both the Himmel & Wilson *Directions 2000* study and the West Virginia Library Association's Long Range Action Plan recognized the importance of working toward securing dedicated funding for all libraries in West Virginia.

In addition to the recommendations of these two official studies, the West Virginia Library Commission is asked every year during its annual budget hearings to attempt to raise the level of local funding of public libraries in West Virginia. Both the Senate and House Finance Committee members comment that state-level funding for public libraries ranks quite high in comparison to the other 49 states, while local support is at the bottom of the 50 states. Therefore, they recommend that the Executive Secretary of the West Virginia Library Commission seek to increase local support for public libraries. And this is where the real crux of the matter lies. History has taught us that local support for public libraries will not rise without a legal requirement. Public library trustees and directors can go before local governing authorities annually and "ask" for funds to operate the library, but the funds they receive will be inadequate. Not until local funding is "required" by law will it be supplied in an adequate amount. That is the real lesson of history for West Virginia public libraries. *Working Draft #3* of the Library Commission's Administrative Rules & Regulations outlines a matching amount of local funds in order to receive state Grants-In-Aid dollars. I believe in many cases this is the only way local funds will be secured, and if local communities and governing authorities cannot or will not match the states funding dollars, then perhaps library service for that community would be better provided in another way.

Finally, the current Administrative Rules & Regulations need to be revised. The current Rules were adopted in July 1997. The funding requirements of the current Rules are out-of-step with the current situation of public libraries in the state. This proposed revision would meet the current conditions and funding situations effectively. Three points about local public library funding are clear: 1) something must be done to improve local funding of public libraries, 2) the current Administrative Rules & Regulations are no longer effective or appropriate to provide for an increase in local funding, and 3) an increase in local funding will not occur until it is required. I applaud the West Virginia Library Commission's efforts to increase local funding for public libraries in our state.

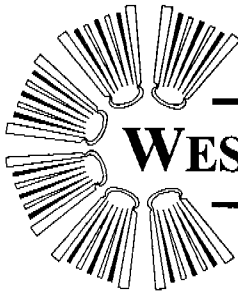
I also wish to comment on one other section of the proposed Administrative Rules & Regulations. *Working Draft #3* includes §173-1-10. Appeal Process. This section was not included in *Working Draft #2* and was added to the current draft in response to recommendations and comments from the library community. I am wholly supportive of this revision and believe the provision of an appeals process is a positive improvement over the current situation. Since the time gap between the publication of *Working Draft #2* and *Working Draft #3* was so short, I do believe some further refinement of this section may be necessary, but its inclusion is both positive and needed.

Thank you for your kind attention to and consideration of my comments.

Sincerely,



Dottie Thomas
Library Director



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Dottie Thomas, Director
Ohio County Public Library
52 16th Street
Wheeling, WV 26003

Dear Ms. Thomas:

On behalf of the West Virginia Library Commission I thank you for your testimony in support of the proposed rule at the Public Hearing on the Administrative Rules and Regulations of the agency on March 31, 2006.

All of your comments were carefully reviewed and the following changes in Working Draft #3 were made in response. The new language is underlined.

§173-1- 10. Appeal Process

10.1. Any appeal of a decision related to the Administrative Regulations shall be submitted in writing to the Chairman of the Library Commission and the Secretary of the Library Commission.

10.2. The appeal shall include the following:

10.2.a. Name and address of the library

10.2.b. Statement of the decision being appealed

10.2.c. Signatures of the Library Director and president of the board of library directors.

10.2.d. Supporting documentation

10.2.e. Resolution sought

10.3. Failure to submit any of the above shall delay the consideration of the appeal by the Library Commission.

10.4. The Secretary will review each appeal and determine if it has been adjudicated previously. If not, The Secretary will place the appeal on the agenda for the next regular meeting of the Library Commission and inform the appellant.

10.5. The appellant shall inform the Secretary if a brief oral presentation will be made at the Commission meeting. Presentations must be limited to ten minutes unless extended by action of the Commission.

10.6. The Library Commission shall review the appeal and issue a decision no later than the next regular meeting.

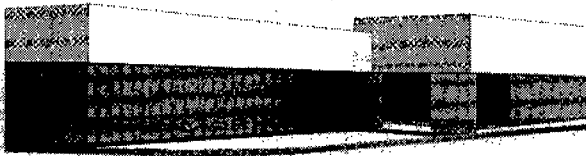
The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

Public Hearing Pre-Registration Administrative Regulations			
Date/Time Received	3-30-06 2:42p		
Name	Sharon Saye		
Address	1200 Johnson Ave.		
City	Bridgeport		
State	WV	Zip 26330	
Telephone	304 842-8248	E-Mail Address	
Library/Org. Representing	Bridgeport PL		
Summary of Proposed Testimony	Previous letter sent 3.17,2.6 and 3.4		
<input checked="" type="checkbox"/> I will provide a complete written copy of comments. <input type="checkbox"/> I will not provide a complete written copy of comments.			

Speaker 5



BRIDGEPORT PUBLIC LIBRARY
1200 Johnson Ave. • Bridgeport, WV 26330
(304) 842-8248 • Fax (304) 842-4018

March 21, 2006

Karen Goff
West Virginia Library Commission
Cultural Center
1900 Kanawha Blvd., E
Charleston, WV 25305

Dear Mrs. Goff,

I have been asked on behalf of the Board of Trustees of the Bridgeport Public Library to present their views on the changes to the Administrative Rules and Regulations as proposed in Working Draft #3.

The Board feels that there are several instances in which the Library Commission oversteps its authority in these new rules to interfere with the normal duties of the Board. For instance, the definition in 2.6 of a Consortium requires that they "are approved by the Library Commission." The Board feels that it is their responsibility to enter into consortia agreements that benefit the library, particularly if it does not involve any use of state funds, and are legally established. An example might well be a consortia agreement between the United Hospital Center when it opens its new facilities in Bridgeport and the Bridgeport Public Library to provide materials and services to the families of patients in support of the UHC Library. The Board does not see why this would require the approval of the state Library Commission, and also feels that this could actually be one more bureaucratic deterrent to consortia agreements between libraries and non-library agencies.

Another example of this is under "Requirements for Receiving Grants" in 173-1-3.17 which states that "The public library makes accessible to all state residents the statewide services and programs provided by the Library Commission at no cost to libraries." If a library is willing to pay for services and programs from other vendors or in other formats, why are they obligated to change to Commission-approved vendors or formats, if they do not wish? The Commission has a history of providing free services, for example, software support for VTLS, which they later ceased paying only to resume paying after a few years. Just because something is available at no cost now does not mean that it may not have a heavy price in the future. Also, the Commission often changes vendors, for instance, online magazine databases; several libraries have

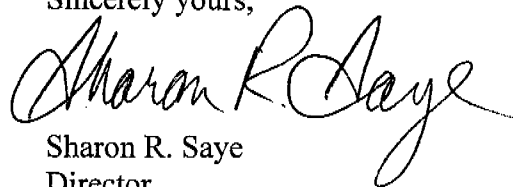
subscribed and paid for rival online magazine databases because of special services such as genealogy or legal sources. Why should libraries willing to pay for these services because they better fit their individual needs have their state grants threatened because they are not accepting "services and programs provided ... **at no cost** to libraries?"

The other issue that the Board feels strongly about which might seem odd coming from Bridgeport is 173-1-3.4. "Local funds received in the previous year equal, or exceed the maximum Grants-in-Aid established for the library. Local non-tax based funds used as matching funds cannot exceed the amount of local tax based funds." This library does not have any problem meeting this requirement, and probably never will, but other libraries within this area will have serious problems with this rule. Out of the 13 libraries in the Upshur County Service Area, only three according to the current State Statistical Report will easily meet this requirement. The other 10 will have minor to very crippling losses in funding on the state side, some up to 25-30% of their total funding.

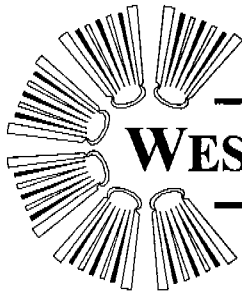
As you are probably unaware, the Bridgeport Public Library has almost 20% of its total patrons from outside Harrison County many from places such as Philippi, Belington, Weston, Sutton, Thomas, etc. Since the library is only half a mile from I79 and down from the only mall in the central part of the state, it is already very convenient to library users from West Union, Grafton, Buckhannon, Elkins, Fairmont, White Hall, and Morgantown. If the libraries in this area suffer financial losses due to the new rules that result in libraries closing or cutting services, it is more than likely that this library will experience a corresponding increase in use without receiving any equal increase in state funds. It will be impossible to expect the citizens of Bridgeport to pay even more in library support to make up for areas that are not providing that support. Thus it is probable that this library will have to charge a fee to all non-county residents further hurting those individuals who live in areas of West Virginia that cannot afford library service. The Board does not see how this change would be beneficial to library users and the citizens of West Virginia.

I appreciate this opportunity to comment on these changes to the rules and regulations and express the Board's concerns.

Sincerely yours,

A handwritten signature in cursive script that reads "Sharon R. Saye". The signature is written in black ink and is positioned above the printed name and title.

Sharon R. Saye
Director



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Sharon Saye, Director
Bridgeport Public Library
1200 Johnson Avenue
Bridgeport, WV 26330

Dear Ms. Saye:

On behalf of the West Virginia Library Commission I thank you for the time and effort you and the Bridgeport Public Library board members took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 21, 2006.

All of the comments were carefully reviewed and the following changes were made in response. The new language is underlined.

2.6 Consortium – A formal cooperative established and developed to improve library services and resources. It may be restricted by geographical area, established for specified purposes, initiated by the West Virginia Library Commission, or initiated by a library. It requires formal agreements concerning purpose, membership, administration and procedures and may include non-library entities. Libraries may enter into any number of consortia agreements that meet the definition of this rule and may request formal approval of the Library Commission.

3.16 (3.17 in Draft#3) The public library provides public access to informational services and programs provided by the Library Commission at no cost to libraries.

8.1. The Library Commission may distribute other grants that further library service in the state. Any public library is eligible to apply for these grants. Grant priorities and qualifications are determined annually by the Library Commission.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

WEST VIRGINIA LIBRARY COMMISSION

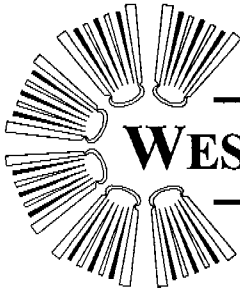
Flatwoods, WV March 31, 2006

ON-SITE REGISTRATION PUBLIC HEARING ADMINISTRATIVE REGULATIONS

Time Received	12:25		
Name	Judy Ruhl		
Address	455 9th Street Her		
City	Huntington WV		
State	WV	Zip	25701
Telephone	304-528-5700	E-Mail Address	J.ruhl@cabell.lib.wv.us
Library/Org. Representing	Cabell County Public Library		
Summary of Proposed Testimony	Support changes in Administrative Regulations with suggestions for 7.2.d, 3.13 and 10.1-6 and support for 3.4		

I will provide a complete written copy of comments.

I will not provide a complete written copy of comments.



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Judy K. Rule, Director
Cabell County Public Library
455 Ninth Street
Huntington, WV 25701

Dear Ms. Rule:

On behalf of the West Virginia Library Commission I thank you for your testimony in support of the proposed rule at the Public Hearing on the Administrative Rules and Regulations of the agency on March 31, 2006 and for the time and effort you have taken to review and comment on the working drafts of the regulations.

All of your comments were carefully reviewed and the following changes in Working Draft #3 were made in response. The new language is underlined.

3.12 The library director completes no fewer than eight (8) hours of continuing education per year. All other full time library support staff complete no fewer than three (3) hours of continuing education per year.

3.12.a. Continuing education hours must be approved in advance by the Library Commission.

3.12.b. Staff of a library assigned to a Service Center Library is required to attend the annual staff development workshop sponsored by the Service Center.

§173-1- 10. Appeal Process

10.1. Any appeal of a decision related to the Administrative Regulations shall be submitted in writing to the Chairman of the Library Commission and the Secretary of the Library Commission.

10.2. The appeal shall include the following:

10.2.a. Name and address of the library

10.2.b. Statement of the decision being appealed

10.2.c. Signatures of the Library Director and president of the board of library directors.

10.2.d. Supporting documentation

10.2.e. Resolution sought

10.3. Failure to submit any of the above shall delay the consideration of the appeal by the Library Commission.

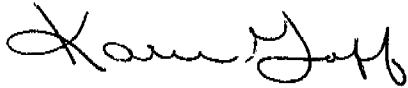
10.4. The Secretary will review each appeal and determine if it has been adjudicated previously. If not, The Secretary will place the appeal on the agenda for the next regular meeting of the Library Commission and inform the appellant.

10.5. The appellant shall inform the Secretary if a brief oral presentation will be made at the Commission meeting. Presentations must be limited to ten minutes unless extended by action of the Commission.

10.6. The Library Commission shall review the appeal and issue a decision no later than the next regular meeting.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

A handwritten signature in cursive script, appearing to read "Karen Goff".

Karen Goff, Director
Library Development Services

Public Hearing Pre-Registration Administrative Regulations			
Date/Time Received	3-17-06 9:23a.m.		
Name	Connie Sutton		
Address	105 North Main Street		
City	Keyser		
State	WV	Zip 26726	
Telephone	304 788-3222	E-Mail Address	Sutton_c@martin.lib.wv.us
Library/Org. Representing	Keyser-Mineral Public Library		
Summary of Proposed Testimony	Concerning section 3.4 plus others		
<input checked="" type="checkbox"/> I will provide a complete written copy of comments. <input type="checkbox"/> I will not provide a complete written copy of comments.			

Speaker 2



KEYSER – MINERAL COUNTY LIBRARY

105 NORTH MAIN STREET
KEYSER, WEST VIRGINIA 26726
304-788-3222

March 31, 2006

Ms. Karen Goff
West Virginia Library Commission
1900 Kanawha Blvd. East
Cultural Center
Charleston, WV 25303-0620

Dear Ms. Goff,

On behalf of the Keyser-Mineral County Library Board I would like to express our concerns regarding the proposed changes to the Administrative Regulations for West Virginia libraries.

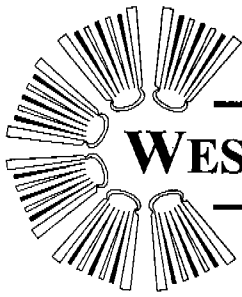
While I applaud the intent of the WVLC to assist libraries in increasing local funding, I believe requiring a match of local dollars to state dollars is unrealistic and a goal too many libraries, including the Keyser-Mineral County Library, will not be able to meet. If the new funding requirements had been in force in 2005 thirty-five libraries would have lost a total \$747,400 resulting in a loss of services to 433,819 West Virginians.

Funding at the local level, particularly in rural areas, depends almost entirely upon establishing and maintaining excellent working relationships with the community, business leaders, and political figures. The proposed funding regulations threaten those whose support we need with fewer services and a decreased library presence.

As an alternative, I suggest that the match of local funds to state funds be reduced to 50% of state funding and include *all* local funds.

Sincerely yours,

Connie Sutton
Director
Keyser-Mineral County Library
304-788-3222
sutton_c@martin.lib.wv.us



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Connie Sutton, Director
Keyser-Mineral Public Library
105 North Main Street
Keyser, WV 26726

Dear Ms. Sutton:

On behalf of the West Virginia Library Commission I thank you for your testimony at the Public Hearing on the Administrative Rules and Regulations of the agency on March 31, 2006 and for the time and effort you have taken to review and comment on the working drafts of the regulations.

All of your comments were carefully reviewed and the following changes in Working Draft #3 were made in response. The new language is underlined.

7.2.e. To evaluate the collections, fiscal management, and operations of each assigned library and report the results annually to the library with a copy to the Library Commission;

8.1. The Library Commission may distribute other grants that further library service in the state. Any public library is eligible to apply for these grants.
Grant priorities and qualifications are determined annually by the Library Commission

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

Public Hearing Pre-Registration Administrative Regulations			
Date/Time Received	3-24-06 9:00 a.m.		
Name	Eva McGuire		
Address	Craft Memorial Library , 600 Commerce Street		
City	Bluefield		
State	WV	Zip 24701	
Telephone	304 325-3943	E-Mail Address	
Library/Org. Representing	Craft Memorial Library		
Summary of Proposed Testimony	The funding 3.4 and 3.5		
<input checked="" type="checkbox"/>	I will provide a complete written copy of comments.		
<input type="checkbox"/>	I will not provide a complete written copy of comments.		

Speaker 4



CRAFT MEMORIAL LIBRARY

J.D. Waggoner
Secretary
West Virginia Library Commission

Dear Mr. Secretary;

Thank you for allowing another opportunity for us to comment on the proposed West Virginia Library Commission Administrative Regulations. I realize that this has been a tremendous undertaking and countless hours have gone into perfecting the document.

Today I would like to speak briefly on Regulation 173-1-3: Requirements for Receiving Grants, specifically section 3.4. According to the draft, local funds received in the previous fiscal year must equal or exceed the maximum Grants-in-Aid established for the library and non-taxed based funds used as matching funds cannot exceed the amount of local tax based funds.

Although I understand the reason behind this section, I know it will be detrimental to many public libraries in the State. Craft Memorial will be one of these libraries. It is great to say that the local city and county governmental entities should do a better job of financially supporting their libraries, but this theory is not reality.

The City of Bluefield for instance, does not have the money at this time to increase their funds to the library. Each year the library director has asked for an increase in funding, showing the need and disposition. It has been six years since the library has seen any increase; in fact two years ago they cut their contribution to the library in half. It took a great effort to get the full previous amount reinstated. We felt fortunate because the City employees themselves experienced a cut in

their salary. The situation today is not any better. Although they would like to, the City of Bluefield cannot give what they don't have.

The Mercer County Commission also would like to give an increase in funds to the public libraries as well as the other organizations they support. We were told there would be no increases this year in the budget. They did promise to protect the monies allocated for the public libraries in Mercer County in spite of the shortfall in their funds. One of the commissioners pledged to do what she could to increase the amount for the 2007-08 fiscal year.

If money is found in the local budgets, it will only be a few thousand dollars and not the nearly \$100,000 that we could lose if this draft is approved as submitted.

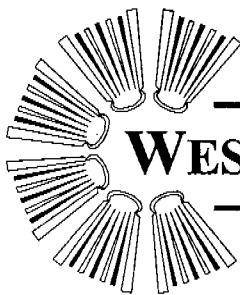
It is my understanding that Grants-in-Aid is designed to **help** public libraries, therefore I urge you to reconsider this section and come up with a formula that will not be as detrimental to many of the public libraries in the State **or** keep the current regulation that states at least sixty-six and two-thirds percent (66 2/3%) of the operating budget must be available from tax funds. At the very least allow **all** local funding, whether they be taxed-based or non-taxed based to be used in meeting the match for Grants-In-Aid.

Thank you for your time.

Sincerely,

Eva McGuire
Director
Craft Memorial Library

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WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services

J.D. Waggoner, Secretary

May 22, 2006

Eva McGuire, Director
Craft Memorial Library
600 Commerce Street
Bluefield, WV 24701

Dear Ms. McGuire:

On behalf of the West Virginia Library Commission I thank you for the time and effort you and the Bridgeport Public Library board members took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 21, 2006.

All of your comments were carefully reviewed and the following changes in Working Draft #3 were made in response. The new language is underlined.

8.1. The Library Commission may distribute other grants that further library service in the state. Any public library is eligible to apply for these grants. Grant priorities and qualifications are determined annually by the Library Commission.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

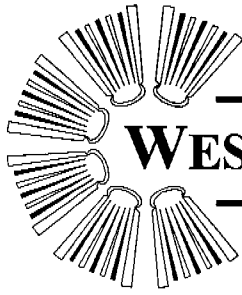
Karen Goff, Director
Library Development Services

WEST VIRGINIA LIBRARY COMMISSION

Flatwoods, WV March 31, 2006

ON-SITE REGISTRATION PUBLIC HEARING ADMINISTRATIVE REGULATIONS

Time Received	12:20 pm		
Name	FLOYD FULLER		
Address	PO Box 1776		
City	Shinnston		
State	WV	Zip	26431
Telephone	(304) 592-3250	E-Mail Address	fyfuller@hotmail.com
Library/Org. Representing	LowE Public Lib		
Summary of Proposed Testimony	Comments on proposed rules		
<input type="checkbox"/> I will provide a complete written copy of comments. <input checked="" type="checkbox"/> I will not provide a complete written copy of comments.			



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Floyd Fullen
PO Box 1776
Shinnston, WV 26431

Dear Mr. Fullen:

On behalf of the West Virginia Library Commission I thank you for your testimony at the Public Hearing on the Administrative Rules and Regulations of the agency on March 31, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

**WEST VIRGINIA LIBRARY COMMISSION
PUBLIC HEARING
MARCH 31, 2006**

Transcript of proceedings had at a public hearing held in the above-entitled matter before the West Virginia Library Commission and before Ayme A. Cochran, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public within and for the State of West Virginia, at the Days Inn Conference Center, Flatwoods, West Virginia, commencing on the 31st day of March, 2006.

**AYME A. COCHRAN, RPR, CRR
1201 POINT MOUNTAIN ROAD
WEBSTER SPRINGS, WEST VIRGINIA 26288
TELEPHONE: (304) 847-7334**

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1 MS. GOFF: Before we open the meeting
2 officially, I want to welcome you all for coming,
3 remind you of some of the procedures today. Anyone
4 who's speaking has received a nice list of what they're
5 supposed to do when they come to the podium and we've
6 also taped it on the podium in case you forget to bring
7 it with you, so it's there. We will be keeping the
8 official time.

9 We have Ayme Cochran with us, who is
10 the -- a court reporter, so there will be a transcript
11 of this meeting. We've handed out the procedures.
12 You've all received those.

13 So after this meeting what happens is
14 that we will submit the -- the transcript and responses
15 to any comments to the Secretary of State and continue
16 to file. So with that, Mr. Waggoner?

17 MR. WAGGONER: Thank you, Ms. Goff. I
18 don't know, maybe that's an omen. We do need to point
19 out the fact that this is a formal meeting. Yes, we
20 all know each other. Yes, we normally use first names,
21 sometimes even other names for each other.

22 The reality is there will be an
23 official record of this meeting. Please, when you come

1 to the podium, as Karen said, on procedures in
2 particular, identify yourself. We know you. That
3 doesn't mean Ayme knows you.

4 So unless -- I truly believe that what
5 we will see ultimately out of this process is going to
6 have a tremendous impact on libraries in this state.
7 The last administrative regs officially were in 1971.
8 It talks about doing interlibrary loan by teletype. It
9 talks about giving libraries book credits to buy 200
10 books. We need to take a giant leap forward.

11 Anytime that we try to address change,
12 along with change always comes some conflict. We
13 understand that. Understand that it is the Library
14 Commission's intent always to improve and develop
15 libraries, not to hurt libraries. That is not our job
16 and we have a statutory responsibility to see that
17 libraries are developed in their communities, that in
18 communities that want to start a library we're there to
19 help support them, that we are in particular there to
20 support libraries that already exist and it is always
21 our intent to be supportive in all things.

22 As we approach this today you will see
23 a response to each statement that's made. Please try

1 and follow the time line. I don't know how many
2 speakers we have signed up. If need be, and it starts
3 to drag on, we'll take a break at some point in the
4 afternoon if we need to. Otherwise, we will move ahead
5 with the public hearing and I'll let -- Karen will be
6 watch dog and I'm not sure who timekeeper is. Are you
7 timekeeper?

8 MS GOFF: I'm timekeeper.

9 MR. JULIAN: So you are officially
10 declaring the public meeting open?

11 MR. WAGGONER: We are declaring the
12 public meeting open and I'm sorry, I should have
13 introduced him. In case any of you all do not know,
14 this is Dr. Charles Julian, who is one of our
15 commissioners.

16 MR. JULIAN: Who is going to remain
17 remarkably quiet today, believe it or not.

18 MR. WAGGONER: Miracles do exist. Do
19 we have a list of the speakers?

20 MS. GOFF: Yes.

21 MR. WAGGONER: Okay, the first is
22 Connie Sutton.

23 MS. SUTTON: My name is Connie Sutton.

1 My address is Keyser-Mineral County Library, 105 North
2 Main Street, Keyser, West Virginia. My zip code is
3 26726. I have written remarks to submit and also some
4 -- just extemporaneous remarks as well.

5 I want to start out by saying that I
6 respect and understand the intentions of the West
7 Virginia Library Association. I could waste my --
8 well, it wouldn't be a waste. I could spend my five
9 minutes talking about all the things I like about it,
10 but if you could just consider it said, then I can move
11 my -- use my five minutes to talk about the things that
12 I have concerns about.

13 My concerns are basically relationships
14 and money. In a perfect world we would all have
15 perfect relationships and we would all have all the
16 money that we want, but the reality from where I am is
17 a little different.

18 The money first. I think the match of
19 dollar to dollar is too high. We do need a standard.
20 I think it's too high and I think it should be lower.
21 I think it needs to be something that we can more
22 reasonably meet. I think it will be perceived as a
23 threat by the County Commission, which gives me the

1 bulk of my local funding, and people don't respond well
2 to threats.

3 Recently, a year ago, I had occasion to
4 say to my community, "I need more money. I need
5 another \$5,000.00 or I'm going to have to close the
6 library, reduce hours at the library." I got a great
7 response from the City and from the community, from the
8 community at large. It was a goal I could meet. I
9 didn't get anything from the County Commission, not
10 anything, and they're the ones who give me the most
11 money, and so I think this is going to hurt me at the
12 County Commission.

13 The other concerns I have are
14 relationships and the kind of ambiguous measure of some
15 of the eligibility requirements. Again, in a perfect
16 world we would have libraries that have wonderful
17 policies and wonderful operations and we would just run
18 so well we could all spend our time having fun with
19 patrons, but in particular, it's a service center
20 library. I see libraries, not only service center
21 libraries and affiliate libraries, but my own as well.
22 There's always places to improve.

23 When I see kind of the ambiguous

1 nature, for instance, you know, we have the
2 relationships -- we have to get money. We have to fill
3 the requirements for the Grants-In-Aid and we fill
4 these requirements. There's lots of places in here
5 where, gee, if you don't fill requirements, you lose
6 that money.

7 Well, we have to have, you know,
8 operations policies. Operations is a really big word
9 and kind of open to interpretation. Again, I would say
10 that these regulations, as J.D. said, are going to
11 stand a long time. What may be a good working
12 relationship right now with libraries and the West
13 Virginia Library Commission, and I believe I've got
14 one, as you-guys always help me out, may not be the
15 same in another 25 years or another ten years.

16 The other concern I have is with the
17 requirement of the service center library not to
18 evaluate the affiliate libraries, but the report to the
19 Library Commission. I think it sets up -- that's a one
20 minute -- an adversarial relationship. Being a new
21 librarian, I spend a lot of time building working
22 relationships with the libraries that I serve and I
23 think this would hurt that relationship. They would

1 see it as, well, gee, you know, if I'm not nice to you
2 and if I have a disagreement then there's the potential
3 for me to say to the Library Commission, "They've been
4 bad. Take away their money."

5 Now I can stand up here and say I'm not
6 going to do that, but some day I'm going to retire.
7 Who knows about the person who replaces me? So I think
8 my concerns, to sum it up, are always the money and
9 always the relationships. I think we, as librarians,
10 are -- we succeed with the relationships with our
11 patrons.

12 J.D., you once said to me that "your
13 patrons are not going to remember whether or not they
14 got what -- exactly what they wanted when they came
15 into the library, but they're going to remember how
16 they were treated and whether you helped them and
17 they're going to remember the relationship." That's
18 it.

19 MR. WAGGONER: Thank you, Connie.

20 MR. JULIAN: Thanks, Connie.

21 MR. WAGGONER: The next registered is
22 Eva McGuire.

23 MS. McGuire: Mr. Secretary, good

1 afternoon. My name is Eva McGuire. I'm the director
2 of Craft Memorial Library, 600 Commerce Street,
3 Bluefield. First of all, I want to thank you for
4 giving us this opportunity to comment on the proposed
5 West Virginia Library Commission Administrative
6 Regulations. I realize that this has been a tremendous
7 undertaking and countless hours have gone into
8 perfecting the document.

9 I, too, would like to just briefly
10 speak on regulation 173-1-3, specifically section 3.4.
11 According to the draft, local funds received in the
12 previous fiscal year must equal or exceed the maximum
13 Grants-In-Aid established for the library and non-taxed
14 based funds used as matching funds cannot exceed the
15 amount of local tax based funds.

16 Although I understand the reasoning
17 behind this section, I know it will be detrimental to
18 many libraries in the state, Craft Memorial being one
19 of these. It's great to say that the local city and
20 the county governmental entities should do a better job
21 of financially supporting their libraries. I do agree
22 with this theory, but it is not reality.

23 The City of Bluefield, for instance,

1 does not have the money at this time to increase the
2 funds to the library. Each year the director has asked
3 for an increase of funds showing the need and the
4 disposition. It's been six years since the library has
5 received any increase at all and we know a dollar today
6 does not go as far as it did six years ago.

7 In fact, two years ago the City cut the
8 library's contribution in half and it took a great
9 effort on our behalf to get this amount reinstated to
10 the full previous amounts. We felt fortunate at this
11 time that we were able to do this because the City
12 employees themselves received a cut in their salary.
13 Today, the situation is no better. Although they would
14 like to, the City of Bluefield cannot give what they do
15 not have.

16 The Mercer County Commission would also
17 like to give us an increase in the funds that they give
18 to the public libraries in the county as well as other
19 organizations they support. This year we were told
20 there would be no increases in their budget, but they
21 did promise to protect the monies allocated for public
22 libraries in the county in spite of a shortfall in
23 their own funds. One commissioner did pledge to do

1 what she could to see if there could be an increase in
2 the funds for the 2007-2008 fiscal year.

3 If money is found in the local budgets,
4 it will only be a few thousand dollars and not the
5 nearly hundred thousand dollars we could lose if this
6 draft is approved as submitted.

7 I understand that the Grants-in-Aid is
8 designed to help public libraries. Therefore, I urge
9 you to reconsider this section and come up with a
10 formula that will not be as detrimental to many of the
11 public libraries in the state or to keep the current
12 regulation that states at least sixty-six and
13 two-thirds percent of the operating budget must be
14 available from tax funds. At the very least, allow
15 local funding, whether they be tax-based or non-tax
16 based, to be used in meeting the Grants-in-Aid. Thank
17 you very much.

18 MR. WAGGONER: Thank you. Our next
19 speaker is Sharon Saye.

20 MS. SAYE: Hi. I'm Sharon Saye. I'm
21 the director of the Bridgeport Public Library, 100
22 Johnson Avenue, Bridgeport, West Virginia, 26330. A
23 letter -- in essence, what I'm going to say has already

1 been sent to the Library Commission. I have been asked
2 on behalf of the Board of Trustees to present their
3 views on changes to the Administrative Rules and
4 Regulations as proposed in working draft number three.

5 The Board feels that there are several
6 instances in which the Library Commission overstepped
7 its authority in these new rules to interfere with what
8 they consider the normal duties of the Board. For
9 instance, the definition in 2.6 of a consortium
10 requires that they "are approved by the Library
11 Commission." The Board feels that it is their
12 responsibility to enter into consortia agreements that
13 benefit the library, particularly if it does not
14 involve any use of state funds and are legally
15 established. An example might well be a consortia
16 agreement between the United Hospital Center when it
17 opens its new facilities in Bridgeport and the
18 Bridgeport Public Library to provide materials and
19 services to the families of patients. The Board does
20 not see why this would require the approval of the
21 State Library Commission and also feels that this could
22 actually be one more bureaucratic deterrent to
23 consortia agreements between libraries and non-library

1 agencies.

2 Another example of this is under
3 "Requirements For Receiving Grants" in 173-1-3.17 which
4 states that "the public library makes accessible to all
5 state residents the statewide services and programs
6 provided by the Library Commission at no cost to
7 libraries." If a library is willing to pay for
8 services and programs from other vendors or in other
9 formats, why are they obligated to change to a
10 Commission-approved vendors or formats if they do not
11 wish? The Commission has a long history of providing
12 free services, for example, software support for VTLS,
13 which they later ceased paying, and then later resumed
14 paying. So things could be free at one time and not so
15 free later on.

16 Also, the Commission often changes
17 vendors. For instance, the online magazine databases.
18 Several libraries have subscribed and paid for rival
19 online magazine databases because of special services
20 such as genealogy or legal sources. Why should these
21 libraries willing to pay for these services because
22 they better fit their individual needs have their state
23 grants threatened because they are not accepting

1 services and programs provided at no cost to libraries?

2 The other issue that the Board feels
3 strongly about is the funding requirement in 173-1-3.4.
4 This library does not have any problem meeting this
5 requirement, but other libraries within this area will
6 have serious problems with this rule. Out of the 13
7 libraries in the Upshur County service area, only
8 three, according to the current State Statistical
9 Report, will meet this requirement. The other ten will
10 have minor to very crippling losses in funding on the
11 state side.

12 As you are probably unaware, the
13 Bridgeport Public Library has almost 20 percent of its
14 total patrons from outside of Harrison County and they
15 come from places such as Philippi, Belington, Sutton,
16 Thomas, et cetera. Since the library is only half a
17 mile from I-79 and down the road from the only mall in
18 the central part of the state, it is already very
19 convenient to library users from all over Central West
20 Virginia. If the libraries in this area suffer
21 financial losses due to the new rules that result in
22 libraries closing or cutting services it is more than
23 likely that this library will experience a

1 corresponding increase in use without receiving any
2 equal increase in state funds. It will be impossible
3 to expect the citizens of Bridgeport to pay even more
4 in library support to make up for areas that are not
5 willing to pay.

6 And it may be admirable to put pressure
7 on municipalities and counties to provide adequate
8 funding, but it is not realistic everywhere in my
9 region and will have repercussions on all libraries in
10 the area. Thus, it is probable that my library will
11 have to charge a fee to all non-county residents,
12 further hurting those individuals who live in areas in
13 West Virginia that cannot afford library service. The
14 Board does not see how this change would be beneficial
15 to library users and citizens of West Virginia.

16 I appreciate this opportunity to
17 comment on these changes to the rules and regulations
18 and express the Board's concerns. Thank you.

19 MR. WAGGONER: Thank you.

20 MR. JULIAN: Thank you, Sharon.

21 MR. WAGGONER: Next is Dottie Thomas.

22 MS. THOMAS: I'm Dottie Thomas from the
23 Ohio County Public Library, 52 16th Street, Wheeling,

1 West Virginia, 26003. I would like to address the West
2 Virginia Library Commission today concerning the issue
3 of funding requirements for public libraries in West
4 Virginia.

5 West Virginia ranks 50th in the nation
6 in local funding support of public libraries. Of the
7 97 public library systems in the state, only 11 have
8 special dedicated funding laws and of those 11 laws it
9 could be argued that only eight provide adequate
10 funding. The lack of specific local funding
11 requirements has meant that local library boards and
12 library directors are left every fiscal year with no
13 choice but to approach local funding bodies, county
14 commissions, boards of education, with hat in hand to
15 politely ask for funds to operate the public library.
16 For too many years now we have seen the meager result
17 of this method of securing funds for public libraries.
18 It has failed to even begin to adequately fund most of
19 the 97 public libraries in the state.

20 Furthermore, the lack of assurance of
21 local funds from year to year has left library boards
22 and library directors unable to plan for future
23 services, programs, materials acquisition or

1 facilities. In light of this dire situation it is
2 imperative that the West Virginia Library Commission
3 attempts to improve funding for public libraries in the
4 state.

5 In 1999 Himmel & Wilson Library
6 Consultants released the results of their Directions
7 2000 study commissioned by the West Virginia Library
8 Commission for the purpose of identifying and defining
9 directions for future library services in the year 2000
10 and beyond. The final report addressed several areas
11 of library service, one of which was funding. The
12 consultants recommended, "The development and pursuit
13 of a partnership funding strategy aimed at increasing
14 both state and local funding for public libraries."

15 As a follow-up to the Himmel & Wilson
16 report the West Virginia Library Association undertook
17 a planning process in 2001 that studied the same areas
18 of library service as Himmel & Wilson. The goal of the
19 planning process was to develop a long range action
20 plan for libraries and library services in West
21 Virginia.

22 One of the six sub-committees of this
23 planning process was funding. This subcommittee

1 recommended seeking dedicated funding for all public
2 libraries in the state. The funding subcommittee's
3 report recognized that without adequate funding public
4 libraries were unable to provide quality services,
5 collections or access to quality electronic resources
6 within adequate facilities by qualified staff.

7 Thus, both Himmel & Wilson Directions
8 2000 study and the West Virginia Library Association's
9 long range action plan recognized the importance of
10 working towards securing dedicated funding for all
11 libraries in West Virginia.

12 In addition to the recommendations of
13 these two official studies the West Virginia Library
14 Commission is asked every year during its annual budget
15 hearings to attempt to raise the level of local funding
16 of public libraries in West Virginia. Both the Senate
17 and the House Finance Committee members comment that
18 state level funding for public libraries ranks quite
19 high in comparison to the other 49 states, while local
20 support is at the bottom of the 50 states. Therefore,
21 they recommend that the Secretary of the West Virginia
22 Library Commission seek to increase local support for
23 public libraries and this is where the real crux of the

1 matter lies.

2 History has taught us that local
3 support for public libraries will not rise without a
4 legal requirement. Public library trustees and
5 directors can go before local governing authorities
6 annually and ask for funds to operate the library, but
7 the funds they receive will be inadequate. Not until
8 local funding is required by law will it be supplied in
9 an adequate amount. That is the real lesson of history
10 for West Virginia public libraries.

11 Working draft number three of the
12 Library Commission's Administrative Rules and
13 Regulations outlines a matching amount of local funds
14 in order to receive state Grants-In-Aid dollars. I
15 believe in many cases this is the only way local funds
16 will be secured and if local communities and governing
17 authorities cannot or will not match the State's
18 funding dollars, then perhaps library service for that
19 community would be better provided in another way.

20 Finally, the current Administrative
21 Rules & Regulations do need to be revised. The current
22 rules were adopted in July, 1997. The funding
23 requirements of the current rules are out of step with

1 the current situation of public libraries in the state.
2 This proposed revision would meet the current
3 conditions and funding situations effectively.

4 Three points about local public library
5 funding are clear. Number one, something must be done
6 to improve local funding of public libraries. Number
7 two, the current Administrative Rules & Regulations are
8 no longer effective or appropriate to provide for an
9 increase in local funding, and three, increase in local
10 funding will not occur until it is required.

11 I applaud the West Virginia Library
12 Commission's efforts to increase local funding for
13 public libraries in our state. One further comment, I
14 won't read the paragraph, is that I do believe the
15 appeals process that was added between working draft
16 two and three is a positive move. It may need some
17 further refinements since the time period was so short
18 for that, but I again am very supportive of that.
19 Thank you.

20 MR. WAGGONER: Thank you, Dottie.
21 Before we go on to our next speaker, I know some of you
22 came in late. We need for everyone to register. If
23 you did not register at the back table, please make

1 sure you do so. If there was any confusion about
2 whether or not you needed to fill out a form in order
3 to speak and if you wish to speak and you have not
4 completed the form, I need for you to do that.

5 MR. JULIAN: They need to do it now.

6 MR. WAGGONER: Instantly. The next
7 speaker is Floyd Fullen.

8 MR. FULLEN: My name is Floyd Fullen,
9 F-u-l-l-e-n. My address is Post Office Box 1885,
10 Shinnston, and I'm a trustee of the Lowe Library in
11 Shinnston. What I did was look through the draft and
12 make some notes that I would just like to share with
13 you and I don't have any prepared remarks.

14 2.2 talks about the audit and that's
15 been a very big problem with small libraries. We would
16 like to see some threshold where you have to start
17 doing an audit, the type that's required now, and
18 \$25,000.00 seems to be the number that has to do with
19 non-profit organizations where you have to fill out an
20 annual form, so that might be a place to look at. We
21 have some libraries where the audit costs -- maybe 20
22 or 30 percent of their total budget is the audit, which
23 seems to be counterproductive.

1 The legal service population in 2.12
2 says that the number of people in the geographic area
3 assigned to a public library by the Library Commission
4 and just recently in our Lowe Friends Library we got
5 into a discussion about our service area. It's
6 certainly much bigger than the corporate boundaries of
7 Shinnston and I'd like to look at that 2.12 and see if
8 this new definition includes adjacent areas like
9 Shinnston serves Lumberport, Wallace and Enterprise,
10 and those are areas that are serviced by the high
11 school and middle school and if we were to be able to
12 include that in our service area that would increase
13 our per capita, which would give us more funds to
14 operate the library more efficiently.

15 The Public Library Board, it doesn't --
16 on 2.22 doesn't say who appoints people and I know that
17 there's some different local laws that set up plans for
18 that, but it doesn't say on there -- like, for
19 instance, Shinnston, we offer names to the county -- or
20 I mean to the city government and they pass it as an
21 ordinance or as a motion, but it should say in 2.22 who
22 is going to do that.

23 3.11, "The Public Library Board employs

1 a full-time professional librarian to direct the
2 operations of the library to attend meetings", et
3 cetera. We do not have the funds to hire a true
4 full-time professional librarian and I'm sure there's a
5 lot of other libraries in the same position. I think
6 there should be some -- some language that allows that
7 to happen because if you read this closely, it just
8 looks like you have to have a full-time professional
9 librarian and like I said, we can't afford that.

10 I'm just checking here to see if there
11 were some other notes. Yes, just one more. It talks
12 about building new libraries. Every once in awhile
13 we'll hear some comment about that the library should
14 be as part of a school or part of a -- the location
15 where the school is and with the consolidation that
16 we've done with schools, most of the schools are now in
17 remote areas or not in the city anymore and I think
18 that the library is one of the very important assets
19 for a downtown area that adds to the city and
20 encourages people to come to the downtown, so I would
21 hope that that 8.2.2.h would say that there should be
22 an emphasis on placing the libraries in downtown areas.

23 The last remark is that again, it's in

1 9.1 and 9.1.a. It talks about what area the library
2 will serve and I've already covered that. Thank you
3 very much for your attention.

4 MR. JULIAN: Thank you, Floyd.

5 MR. WAGGONER: Thank you, Floyd. Our
6 next speaker is Judy Rule.

7 MS. RULE: My name is Judy Rule and I'm
8 with the Cabell County Public Library at 455 Ninth
9 Street, Huntington, West Virginia, 25701. I have some
10 remarks to make. Like Floyd, I did not prepare
11 remarks.

12 I do think, and I want to commend the
13 commission and the commissioners, for revising these
14 Administrative Regulations. It's long overdue and it's
15 very, very necessary. I think that you've done an
16 outstanding job with it and I feel like that the
17 library community has been given ample opportunity to
18 respond. We may still have disagreements, but
19 nevertheless, we have had ample opportunity to voice
20 those disagreements.

21 I have a couple of suggestions. In
22 7.17.2 and particularly -- and then also in 3.13 and
23 6.2 it's talking about professional education and

1 continuing education. In 7.2.d it says that service
2 providers are required to provide a staff development
3 day. If we provide a staff development day, then the
4 libraries ought to be required to come. Also, it may
5 be that the service provider could approve continuing
6 education as well as the Library Commission and the
7 Library Commission would pay travel to staff
8 development days that the service provider puts on.

9 I think the addition of 10.1 through 6,
10 which is the appeals process, strengthens these
11 Administrative Regulations almost immeasurably. I
12 think that there still could be some additions to that.
13 I think that some accommodation should be made for the
14 West Virginia Library Commissioners who are lay members
15 with the exception of Dr. Julian, who is a professional
16 librarian.

17 MR. JULIAN: And Merle.

18 MS. RULE: But the lay members of that
19 Commission receive their professional advice from the
20 Secretary of the Commission. If the argument is
21 between the Secretary of the Commission and a library,
22 it seems to me that there needs to be an advisory board
23 or an advisory counsel maybe elected and it would

1 change from time to time that could be the professional
2 advisors to the commissioners. They would be unbiased,
3 unprejudiced, in whatever argument is ongoing at the
4 time.

5 I think that the entire section needs
6 to be looked at to be strengthened and this would be
7 one way to strengthen it, that it would -- if a
8 controversy is heard by the commissioners then there
9 would be a way that the commissioners could get advice
10 from the general library community as well as getting
11 all professional advice from the Secretary of the
12 Commission.

13 I would like to speak in support -- a
14 lot has been said against 3.4, which requires the
15 matching funds. I think that again, the change that
16 made matching funds from -- to include local support as
17 well as tax based funds has strengthened that. I think
18 that in my almost 39 years here in this state to --
19 asking people -- asking county commissions and cities
20 for money has not worked because we rank last in the
21 nation. I think that we need something like a stick
22 that this provides to libraries in my area or in the
23 bottom ten of needing more money and they are using

1 this to go to their county commissioners and saying,
2 "This is coming down. We need funding for libraries."

3 Thank you very much. I think you all
4 have done an excellent job. I urge these to move
5 forward. Thank you.

6 MR. WAGGONER: Thank you, Judy.

7 MR. JULIAN: Thank you, Judy.

8 MR. WAGGONER: That was the last form I
9 had; is that correct?

10 MR. JULIAN: J.D., you might want to
11 read that for the record.

12 MR. WAGGONER: The good doctor is
13 keeping me legal up here. He's trying to get me to
14 close the hearing.

15 Before I close the hearing, I would
16 like to say how much I appreciate each of you who came
17 today. I would also like to say how much I appreciate
18 you looking at the Administrative Regulations.

19 This has taken a tremendous amount of
20 work. I would love to say that the Secretary has been
21 so actively involved. That's not true. Staff has
22 spent many, many long hours. Karen Goff, Karen Hiser
23 and others have spent many, many long hours trying to

1 resolve the needs of libraries in the state.

2 The efforts to improve libraries will
3 take full cooperation of the West Virginia Library
4 Commission, all of the libraries in the state, the West
5 Virginia Library Association and anyone with an
6 interest in libraries, be they trustees, friends,
7 groups, whoever. This takes a push on everyone's part.

8 I had really hoped when I walked into
9 this room that it would not be big enough for the
10 number of people that would attend. I'm a little
11 disappointed. I had hoped for better attendance. We
12 will respond to each of the presenters today. We will
13 make those public. We will post those on our website.

14 You see who is really in charge. I
15 turned around and looked at Karen. We will post those
16 on our website and this will not end this process. We
17 have a long, long trail to go down before
18 administrative regs are in place. The earliest
19 possible time, earliest possible time, is the
20 legislative session in 2007. That would not go into
21 effect until July the 1st, 2007, and if you look at the
22 funding requirement, it is three years after that.

23 We are a long, long way from completing

1 this process, but I ask for your continued support,
2 your continued interest and even your continued
3 complaints. Please, please stay a part of the process
4 and with that, then we will officially close this
5 hearing period on the proposed rule. Thank you all for
6 coming.

7 MR. FULLEN: J.D.?

8 MR. JULIAN: Floyd has his hand up.

9 MR. WAGGONER: We are off the record.

10 I officially closed it.

11 (WHEREUPON, the proceedings concluded.)
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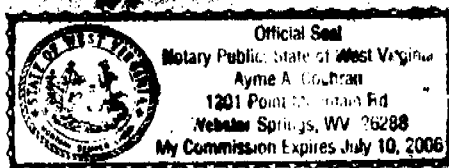
STATE OF WEST VIRGINIA,
COUNTY OF WEBSTER, to-wit:

I, the undersigned, Ayme A. Cochran, a
Certified Court Reporter, Registered Professional
Reporter, Certified Realtime Reporter and Notary Public
within and for the county and state aforesaid, duly
Commissioned and qualified, do hereby certify that the
foregoing is, to the best of my skill and ability, a
true and accurate transcript of all the proceedings as
set forth in the caption hereof.

Given under my hand and official seal
this 4th day of April, 2006.

Ayme A Cochran, RPR, CRR
Certified Court Reporter
Registered Professional Reporter
Certified Realtime Reporter
Notary Public

My Commission expires July 10, 2006.



Karen Goff

From: "Karen Goff" <goffk@wvlc.lib.wv.us>
To: "Pam Warden" <pwarden@cabell.lib.wv.us>
Sent: Thursday, April 13, 2006 10:58 AM
Subject: Re: New Revisions

Pam, Thank you for your comments on the funding regulation. We have considered many, many options in establishing a requirement that will be an incentive for increasing local funding for libraries. I appreciate and share your concern.

----- Original Message -----

From: "Pam Warden" <pwarden@cabell.lib.wv.us>
To: <goffk@wvlc.lib.wv.us>
Sent: Tuesday, March 07, 2006 9:54 AM
Subject: New Revisions

>I understand what the WVLC is trying to do here, but in the long run, I
>think it is going to hurt the small rural libraries in this state. Take
>for instance this library and its branches. We have sought funding from
>the local sources here in Mingo County but to no avail, with the exception
>of funding from the Mingo County Board of Education. With these new
>revisions going into effect and our grants n aid being based on the amount
>of local funding we receive, then we will have no choice but to close some
>of the libraries here in Mingo County. Who are we going to be hurting
>these most in these rural counties? Will it be the libraries or are we
>going to be hurting the citizens of these counties? I think that is
>something the WVLC needs to ask itself. With the current situation that
>Kanawha County and Cabell County have, then this is no problem for them.
>But the counties like Mingo, Logan, Wayne, and other rural libraries, whats
>going to happen to them? If we have to close some libraries down in our
>counties, what are the patrons going to do? You should ask yourself are we
>making a good decision here or are we making a bad decision here? Its
>something that the WVLC should take into consideration before asking for
>these changes.
>

Karen Goff

From: "Karen Goff" <goffk@wvlc.lib.wv.us>
To: "Carl Marcum" <cdmarcum@mail.wvu.edu>
Sent: Monday, March 27, 2006 3:19 PM
Subject: Re: Comments concerning Administrative Regulations

Thank you for your comments.

----- Original Message -----

From: Carl Marcum
To: goffk@wvlc.lib.wv.us
Cc: smccomas
Sent: Monday, March 27, 2006 1:24 PM
Subject: Comments concerning Administrative Regulations

Good afternoon Ms. Goff,

I serve as a board member with the Wayne County Public Libraries, and wish to offer a comment or two about proposed regulation changes.

Requiring a 50% match from local sources in order to receive state aid and grants would be extremely difficult in Wayne County, if not totally out of question. Local funders are already struggling to meet current obligations, and requests for significant increases in funding are not even considered in my experience. Wayne County Libraries are dependant on state funding to operate right now. Requiring significantly more local funding will likely result in cutting services to our citizens. Thank you for your consideration.
Havagooden, Carl Marcum

Karen Goff

From: "Karen Goff" <goffk@wvlc.lib.wv.us>
To: "michael ferguson" <mefwayne@yahoo.com>
Sent: Monday, March 27, 2006 11:45 AM
Subject: Re:

Mr. Ferguson, Thank you very much for your comments on the funding regulation. We continue to struggle with a requirement that will be an incentive for local funding.

----- Original Message -----

From: michael ferguson
To: goffk@wvlc.lib.wv.us
Cc: smccomas@cabell.lib.wv.us
Sent: Monday, March 27, 2006 10:32 AM

Ms. Goff, please consider these comments as per the proposed admendments to the Administration Regulations.

The proposed regulation changes under section 3.4 can only harm local libraries by requiring a 50/50 match from local funding sources. We in Wayne County have worked very hard to pass an excess levy which provides over \$30,000 per year for library services but there is no way to increase that amount to half of the state grant-in-aid. I believe that we could possibly increase local funding to meet a 70/30 proposal. Without the current state funding, our local system would not be able to maintain current services to our citizens. Thank you for your concideration.
Michael E. Ferguson, Chairman, Wayne County Library Board of Trustees

New Yahoo! Messenger with Voice. Call regular phones from your PC for low, low rates.

Karen Goff

From: "Karen Goff" <goffk@wvlc.lib.wv.us>
To: "Iris Shelton" <sheltoni@mail.mln.lib.wv.us>
Sent: Friday, March 24, 2006 11:01 AM
Subject: Re: Article 3.4

Thanks for your comment Iris.

----- Original Message -----

From: Iris Shelton
To: goffk@wvlc.lib.wv.us
Sent: Tuesday, March 21, 2006 11:28 AM
Subject: Article 3.4

Karen,
I am writing to oppose article number 3.4. I am Branch Manager of Bradshaw Branch Library in McDowell County. Our county is very poor with high unemployment and I don't see any way that our county libraries will survive if this passes. I would like to see things stay the same.

Sincerely,

Iris Shelton

CHARLES AND PATRICIA BONAR

FORT HILL FARM

HC 84, Box 8

BURLINGTON, WEST VIRGINIA 26710

PHONE 804-289-3735

EMAIL: PTE00849@MAIL.WVNET.EDU

March 17, 2006

Ms. Karen Goff
West Virginia Library Commission
1900 Kanawha Blvd. East
Cultural Center
Charleston, WV 25303-0620

Dear Ms. Goff,

As President of the Board of the Keyser-Mineral County Public Library I am writing to express my concerns regarding the proposed revised Administrative Regulations governing libraries. Specifically, the method chosen by the West Virginia Library Commission to stimulate local tax based funding in section 173-1-3.3.4.

The Keyser-Mineral County Library system has spent the past six years working with our local government funding agencies to increase their awareness of our services and augment their contribution to the library.

Based on conversations with our local elected officials and my own experience as a County Commissioner, I believe the proposed regulations threaten these relationships and establish a local funding level which is out of reach for too many West Virginia libraries.

The communities who will suffer the financial impact of these proposals are those who have the least amount of funding available and those who rely the most on the enrichment services libraries can and do supply. While not as poor as some counties, our community will suffer a reduction in funding as well.

I strongly urge the commission to find other solutions to improve local funding.

Sincerely yours,



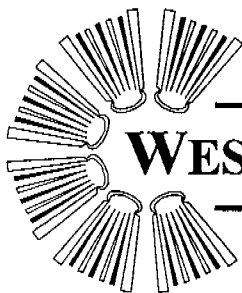
Charles A. Bonar

President

Keyser-Mineral County Library Board

cc: J.D. Waggoner

WVLC Commissioners



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Charles A. Bonar, President
Keyser-Mineral County Public Library Board
HC 84, Box 8
Burlington, WV 26710

Dear Mr. Bonar:

On behalf of the West Virginia Library Commission I thank you for the time and effort you and the Keyser-Mineral County Public Library board members took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 17, 2006.

All of your comments were carefully reviewed and the following changes in Working Draft #3 were made in response. The new language is underlined.

8.1. The Library Commission may distribute other grants that further library service in the state. Any public library is eligible to apply for these grants. Grant priorities and qualifications are determined annually by the Library Commission.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services



SUMMERS COUNTY PUBLIC LIBRARY

201 TEMPLE ST. HINTON, WV 25951

PHONE 304-466-4490 FAX 304-466-5260

TO: Karen Goff
West Virginia Library Commission
1900 Kanawha Blvd East
Charleston, WV 25305

March 16, 2006

FROM: Summers County Public Library Board of Directors

RE: Comments on proposed changes to Administrative Regulations of the West Virginia Library Commission

We recognize the importance of updating the Administrative Regulations and support the efforts of the Library Commission to "modernize" the rules that govern West Virginia's public libraries. We are concerned, however, that several of the proposed rules will make it difficult for libraries in the smaller, more rural, poorer communities in West Virginia to survive. We are recommending the following changes which we feel will not only "enhance" libraries in the larger, wealthier areas of West Virginia but will also help develop and support library service in those areas with fewer people and resources – both financial and educational.

Our comments include:

- **Regulation # 2.10 Grants to Public Libraries** – Awards determined annually by the West Virginia Library Commission from funds appropriated by the Legislature for distribution to public libraries meeting requirements of this rule. Grants are to enhance library services, not to reduce local funding.

Change suggested: Remove second sentence "Grants are to enhance library service, not to reduce local funding" or change it to reflect wording of Chapter 10-1-20 of the West Virginia Code. Aid to libraries by library commission which states: "Having determined that the *development and support* of such libraries will further the education of the people of the State ..."

Justification: Obviously those who wrote this law felt it was the purpose of GIA to *develop and support* not just enhance library services.

Grants-in-Aid – Funds distributed on a per capita basis to all qualifying public libraries.

Change suggested: Leave out phrase "on a per capita basis".

Justification: While we recognize that libraries that serve larger populations need a larger budget than those that serve smaller populations, we feel that it is necessary to recognize that those areas with smaller populations are more likely to have fewer resources to support public libraries. Per capita distribution is biased toward the larger population areas. We urge the Commission to consider distributing at least a portion of the grant in aid funds in a manner that is biased

toward the small areas or at least to leave open the possibility of changing the manner in which GIA is distributed.

Illustration: A \$500,000 increase in GIA appropriations represents an increase of .28/capita. Should the GIA appropriation be increased by this amount, Summers County would receive slightly more than \$4,000; Kanawha County over \$50,000. It is discouraging both for law makers and for those running libraries in rural West Virginia that it takes huge increases in GIA appropriations under the per capita distribution system to make any kind of meaningful difference to those libraries needing assistance the most!

- **Regulation 3.4.** Local funds received in the previous fiscal year equal or exceed the maximum Grants-in-Aid established for the library. Local non-tax based funds used as matching funds cannot exceed the amount of local tax based funds.

1st sentence calls for a 1 to 1 match of local to State funds.

Change suggested: "State will match \$3 for each \$1 in local revenue up to the maximum Grant-in-Aid established for the library"

Justification: According to the 2004 WV Statistical Handbook 75% of all funds collected from all revenue streams in West Virginia are collected at the State level with only 25% collected and distributed through local governing authorities.

These are the funds that are available to support things like schools and libraries. The match requirement needs to more accurately reflect the realities of the West Virginia's tax structure.

2nd sentence requires that ½ local funds be taxed based.

Change suggested: Leave this sentence out altogether.

Justification: Chapter 10-1-1 defines a public library as "a library maintained wholly or in part by any governing authority from funds derived by taxation...".

Reg. 3.2 clearly states that only those libraries established in accordance with W.VA Code Chapter 10 will be eligible for grants from the State. That a public library MUST have some local tax support is already assured by these two rules. We strongly recommend that the Library Commission regulations leave the amount and means by which local library boards meet the local "funds derived by taxation" requirement up to the local boards.

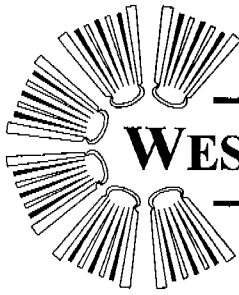
Alternative suggestion: We would welcome a system that provides an incentive to local "governing agencies" to provide support. Example: Match local tax dollars at twice the amount as the match for local non tax based dollars.

- **Regulation 6.1.** The Library Commission determines annually on a per capita basis the maximum grant-in-aid for each library.

Change suggested: Leave out the words "on a per capita basis".

Justification: See previous grants in aid discussion.

Elizabeth R. Bare
Elizabeth Bare, President
Summers County Board of
Library Directors



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Elizabeth Bare, President
Summers County Public Library
201 Temple Street
Hinton, WV 25951

Dear Ms. Bare:

On behalf of the West Virginia Library Commission I thank you for the time and effort you and the other board members took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 16, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

March 27, 2006

West Virginia Library Commission
Cultural Center
1900 Kanawha Blvd. E.
Charleston, WV 25305
Attn: Karen Goff

Ms. Goff

Submitted herewith are my comments and suggestions for consideration in revision of Title 173, Legislative Rule, Library Commission, Series 1, Administrative Regulations, Working Draft #3, January 27, 2006.

Please let me know when final draft for submission to Legislative Rule Making and Review Committee is available. Will it be posted on the Commission's web site?

Your consideration of my suggestions for modification of your Draft #3 will be appreciated.

Thank you for this opportunity to comment.

Sincerely

A handwritten signature in cursive script that reads "David O. Heishman".

David O. Heishman
P.O. Box 380
Moorefield, WV 26836

Specific Comments

These specific comments relate to enumerated sections of:

Title 173
Legislative Rule
Library Commission
Series 1
Administrative Regulations
Working Draft #3
January 27, 2006

173-1-2.10. Grants to Public Libraries – Awards determined annually by the West Virginia Library Commission from funds appropriated by the Legislature for distribution to public libraries meeting requirements of this rule. Grants are to enhance library services, not to reduce local funding. Grants to Public Libraries include:

Grants-in-Aid – Funds distributed on a per capita basis to all qualifying public libraries.

Other grants -- Funds awarded from any balance in the Grants to Public Libraries appropriation or from any other funds designated by the Library Commission.

173-1-2.12. Legal Service Population – The number of people in a geographic area assigned to a public library by the Library Commission.

This definition should read “Grants-in-Aid – Funds distributed on a statewide per capita basis to all qualifying public libraries.” Under present definition per capita amounts may differ from one legal service population (173-1-2.12) to the next.

173-1-3.1. The Library Commission shall determine by review of required reports or evaluation visits whether a public library meets the following eligibility requirements.

173-1-4.1. The Library Commission shall determine by review of required reports or evaluation visits whether public library meets eligibility requirements.

No need for both foregoing statements. I'd suggest retention of 173-1-3.1

173-1-3.4. Local funds received in the previous fiscal year equal or exceed the maximum Grants-in-Aid established for the library. Local non-tax based funds used as matching funds cannot exceed the amount of local tax based funds.

This, introduction of matching funds destroys intent of Grants in Aid proportional to service populations on statewide per capita basis. If this matching is allowed to stand then limit on non-tax funds MUST be removed. This proposition acts to limit funding to library systems in counties strapped for normal operating cash. It is not the job of West Virginia Library Commission to act as spanking teacher to County Library Commissions they deem recalcitrant. I'd suggest doing away with the whole idea of

and transfer those funds to discretionary, unrestricted 173-1-8.1, "Other Grants" for distribution as West Virginia Library Commission sees fit. I recommend 173-1-3.5 and 173-1-4.3 be eliminated and 173-1-8.1 be funded as separate line item in state budget.

173-1-5.1. The Library Commission may waive eligibility requirements if it determines that a waiver is necessary due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous decline in the financial resources of a governing authority.

173-1-5.2. The library requests a waiver by notifying the Library Commission in writing of any extraordinary circumstances and the fiscal year affected. Waivers are granted for one year. The maximum number of consecutive years for which a waiver may be granted for the same situation is three (3).

173-1-5.3. The public library must work with the Library Commission to develop and implement a recovery plan.

173-1-5.4. The Library Commission determines the amount of any Grants-in-Aid distributed to a library on a waiver

173-1-6.1. The Library Commission determines annually on a per capita basis the maximum grant-in-aid for each library. Each library must annually submit a Grant-in-Aid expenditure plan to the Library Commission for approval.

"Precipitous decline", 173-1-5.1 requires more precise, less subjective, definition with respect to both elapsed time and dollar amounts. 173-1-5.2 cuts off waivers after three years. Nowhere in this proposed rule do I find direction or even suggestions for disposition of county library systems no longer eligible for Grants in Aid or West Virginia Library Commission assistance after those three years elapse. 173-1-5.3 should read "The Library Commission must work with the public library to develop and implement a recovery plan. 173-1-5.4 appears to release the Library Commission from all constraint allowing them to set any per capita amounts of Grants in Aid they wish for legal service populations of financially stressed libraries. 173-1-6.1 appears to confer that same power over Grant in Aid distribution for all public libraries, financially stressed or not. I'd suggest entire section 173-1-5 of this rule be replaced with simple statements that all funds appropriated by the legislature for use in Grants in Aid be distributed proportionally, per capita statewide. Public libraries unable to operate with Grants in Aid plus all available local tax and non tax funds may apply for further assistance from State Library Commission "Other Grants" and Library Commission staff for management assistance.

173-1-6.2. Grants-in-Aid may be used for the following purposes only:

173-1-6.2.g All other current operating expenses approved by the library board of directors;

173-1-6.2 should be replaced with "Grants-in-Aid may be used for all current operating expenses approved by the library board of directors". All other enumerated uses in 173-1-6.2 are superfluous verbiage.

173-1-7.3 . The Library Commission will periodically evaluate the performance of Service Center libraries. Failure of a Service Center Library to meet the responsibilities of 7.2 may

matching county/state funds.

173-1-2.20. Professional Librarian – An individual who has received a Masters degree from a program accredited by the American Library Association.

173-1-3.11. The public library board employs a full-time professional librarian to direct the operations of the library and to attend meetings, workshops and conferences designated as required by the Library Commission.

173-1-4.2. The Library Commission will assign a library not directed by a professional librarian to a Service Center Library.

173-1-5.1. The Library Commission may waive eligibility requirements if it determines that a waiver is necessary due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous decline in the financial resources of a governing authority.

173-1-7.2.f. To account for any funds received from the Library Commission or administrative fees used to assist assigned libraries. Administrative fees may not exceed twenty percent (20%) of the Grants-in-Aid for each assigned library.

Libraries with directors not meeting definition of Professional Librarian (2.20) are not eligible (3.11) for Grants in Aid. The Library Commission will assign these libraries to a Service Center Library (4.2). Libraries not under duress when non-professional was hired are not eligible for waiver (5.1). How can administrative fees of up to 20% due Service Center Libraries (7.2.f) be stripped from zero Grants in Aid? These provisions taken together create an unenforceable ambiguity in this rule. Additionally, salary differentials between Professional Librarians and non professional Library Directors (173-1-2.13) may be such as to discourage hiring of professionals where that differential is higher than 20% of Grants in Aid. I'd suggest replacing 173-1-3.11 with language urging employment of Professional Librarians without making it a hard requirement for Grant in Aid eligibility.

173-1-3.5. Local operating expenditures for the previous fiscal year are equal to, or greater than, the average of the total local operating expenditures for the three fiscal years preceding that previous fiscal year. All funds included in the maintenance of effort calculation shall be expended in the fiscal year for which the determination is made and shall not include capital expenditures, special one-time project costs, or similar windfalls.

173-1-4.3. If the maintenance of effort requirement (3.5) is not met, the Grants-in-Aid shall be reduced by a percentage equal to the percentage of the unmet maintenance of effort.

173-1-8.1. Other grants that further library service in the state may be distributed by the Library Commission. Libraries submit applications for other grants on forms provided by the Library Commission. Only libraries meeting requirements enumerated in sections 3.2 through 3.19 of this rule may apply for these grants.

173-1-3.5, lifted from Section 9133, 20 USC Chapter 72, Museum and Library Services 01/19/04 is a requirement placed upon states by federal government. There is no instruction that states must place the same requirement on counties. 173-1-3.5 will act through 173-1-4.3 to strip funds from Grants in Aid

result in the Service Center forfeiting a portion of funds received from the Library Commission or administrative fees, or, in the reassignment of libraries.

173-1-7.3 constitutes one more conduit for siphoning Grant in Aid funds which may be expended at Library Commission discretion. This paragraph should read "The Library Commission will periodically evaluate the performance of Service Center libraries. Failure of a Service Center Library to meet the responsibilities of 7.2 may result in the reassignment of libraries."

173-1-8.1. Other grants that further library service in the state may be distributed by the Library Commission. Libraries submit applications for other grants on forms provided by the Library Commission. Only libraries meeting requirements enumerated in sections 3.2 through 3.19 of this rule may apply for these grants.

These "Other Grants", discretionary in nature, may become controversial distributions of funds siphoned away from Grants in Aid. Other grants should be funded by separate line item in state budget.

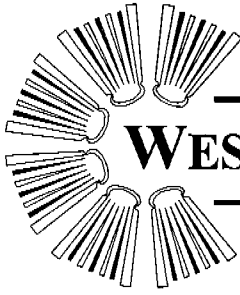
General Comments

(1) Chapter 10, state code, enabling legislation for public library administration, addresses formation and administration of Regional Libraries in no less than six of twenty six paragraphs, yet this proposed rule neither defines nor acknowledges their existence. In light of recent Metro Governments legislation, those provisions for forming regional libraries might provide library services for populations where individual counties are unable to financially justify expenditures for that purpose.

(2) Grants in Aid, calculated and distributed on statewide per capita basis should be separate, unadjusted, dependable monies available to supplement all local funding, no matter the source. Any change in their distribution should meet federal standard in 9132, 20 USC Chapter 72, Museum and Library Services 01/19/04 of 66 percent and 34 percent effectively making state match all local funds two to one.

(3) State Library Commission needs funds for discretionary grants. Those funds, a separate budget line item, should be available to help set up regional systems or provide temporary relief to distressed libraries. Executive Secretary recommended, Commission approved grants might save struggling systems.

(4) Instead of Service Center Libraries, we need Service Center Librarians. Employed by and answerable to the Library Commission, these Professional Librarians, "Lieutenants" to the Executive Secretary "Captain", would provide advice, assistance, and training as necessary within their assigned Service Regions. Service Librarians would facilitate communication between public libraries and Library Commission and would disseminate state policy expediently. Professional Service Librarians might be paid for by savings in salaries at local libraries which really can't afford salary differential required by professionally trained directors.



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

David O. Heishman
P.O. Box 380
Moorefield, WV 26836

Dear Mr. Heishman:

On behalf of the West Virginia Library Commission I thank you for the time and effort you took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 27, 2006.

All of the comments were carefully reviewed and the following changes were made in response.

3.1 was deleted since, as you pointed out, it was repeated in 4.1.

8.1. The Library Commission may distribute other grants that further library service in the state. Any public library is eligible to apply for these grants. Grant priorities and qualifications are determined annually by the Library Commission.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

Comments on the Proposed West Virginia Library Commission Administrative Regulations

March 30, 2006

These proposed regulations are curious, indeed. The authors seem to have drawn inspiration from the bureaucratic practices of Bulgaria.

Possible crimes and infractions are many, but often unspecified. Punishments are vague but cumulative. These regulations are an ideal instrument for centralized command and control. "Do what we say – or else..."

The device employed to extract money from local government is ingenious. Hold the local library hostage! Unfortunately, some counties are poorer than others. The result: where library service is most needed, it is reduced.

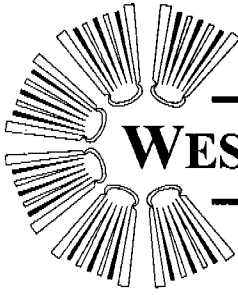
I have one question for the Legislative Rule Making Review Committee and the Legislature at large. *Can the WVLC withhold money that is appropriated on a per capita basis and use it in non-per capita ways?*

I have one question for those at the WVLC who devised and approved this document. Is it possible that your single-minded concern with local library performance is a way of avoiding looking at your own?

The WVLC could choose to see its role as one of support and service to the local libraries of the state. After all, it is to those libraries that the good folks of West Virginia come. The WVLC could arrange its priorities so that maximum possible funding goes to local libraries rather than staying in Charleston.

These proposed administrative regulations make it clear that the WVLC is intent on accountability and enforcement rather than service to the citizens of this state. What a shame!

Charles Bates
Pendleton County Library
PO Box 519
Franklin, WV 26807
bates_v@martin.lib.wv.usa



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Charles Bates
Pendleton County Public Library
PO Box 519
Franklin, WV 26807

Dear Mr. Bates:

On behalf of the West Virginia Library Commission I thank you for the time and effort you took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 30, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services



Pendleton County Library

P.O. Box 519 • Franklin, WV 26807

March 25, 2006

Comments on the proposed West Virginia Library Commission Administrative Regulations

I have reviewed the proposed administrative regulations and believe that they should be rejected and returned to the Library Commission for rewrite. I make this statement because of the potential damage that it would cause to many state libraries if implemented as written.

The primary concern is a draconian operating budget cut that is possible under the regulation sections regarding "maintenance of effort" and the 100% match of local tax and other local funds. There are several scenarios that could demonstrate the devastating effect of the loss of operating budget funds under these regulations. The highly possible scenario is outlined in the following paragraphs.

At the present time the local tax funds provided to the library by the Pendleton County Commission and county School Board amounts to 1/3 of the operating budget with the grants in aid through the library commission providing the other 2/3s. If the county commission should find that due to other needs that they could not continue to provide the 82% of the local tax funds, the library would be left with 18% of the present operating budget. Personnel costs are 75% of the present operating budget, so it would be impossible to open the doors of the library for more than a few hours a week.

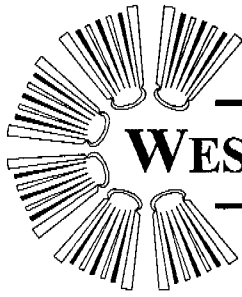
The described condition is indeed a worse case scenario, however the drastic or complete reduction of local tax funding has happened in other counties and could happen in this county. Pendleton County has a small population (8154) and a large area (700 square miles) with no industry to provide tax income. Additionally 30% of the county area is in National Forests, which are not taxed, and the funds in lieu of taxes are only about 1/3 of the amount that would be produced if it were taxed like private property.

In conclusion, I believe that the proposed regulations have a very high potential to do great damage to a good library that has improved it's services over the years for the citizens of the county and others that come to use the library.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob Tuckerman", with a long horizontal flourish extending to the right.

**Bob Tuckerman, President
Board of Trustees**



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Bob Tuckerman
Pendleton County Public Library
PO Box 519
Franklin, WV 26807

Dear Mr. Tuckerman:

On behalf of the West Virginia Library Commission I thank you for the time and effort you took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 30, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

March 28, 2006

Ms. Karen Goff, Library Development
West Virginia Library Commission

Ms. Goff,

As a board member of the Wayne County Public Library, I want to express my concern about Section 3.4 regarding local funding.

The proposed regulation changes under section 3.4 could only harm our local libraries by requiring a 50/50 match from local funding sources.

In Wayne County we have worked very hard to pass an excess levy that provides over \$30,000 per year for library services. Our board does not believe there is any way to increase that amount to half of the state grant-in-aid.

Per recommendation from our board president, I agree that we could possibly increase local funding to meet a 70/30 proposal. Without the current state funding, our local system would not be able to maintain current services to our citizens.

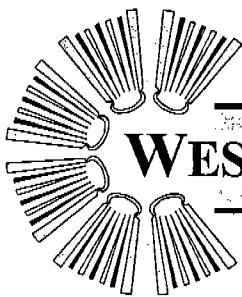
Our libraries have done so well in the past several years, it would be devastating to cut services to those in our communities who have become accustomed to these services.

Thank you for your consideration.

Helen Stephens



Trustee, Wayne County Library Board of Trustees



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services

J.D. Waggoner, Secretary

May 22, 2006

Helen Y. Stephens, Trustee
Wayne County Public Library
1200 Oak Street
Kenova, WV 25530

Dear Ms. Stephens:

On behalf of the West Virginia Library Commission I thank you for the time and effort you took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 28, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services



McDowell Public Library

90 Howard Street

Welch, WV 24801

Phone: 304-436-3070

Fax: 304-436-8079

March 20, 2006

Karen Goff, Director
Library Development Services
West Virginia Library Commission
1900 Kanawha Blvd. E
Charleston, WV 25305

Dear Karen,

Title 173-1-3.4 of the Library Commission's WORKING DRAFT #3 of Administrative Regulations (1/27/06) states: *Local funds received in the precious fiscal year equal or exceed the maximum Grants-in-Aid established for the library. Local non-tax based funds used as matching funds cannot exceed the amount of local tax based funds.*

Our simple interpretation of the cited is that we will have to receive from our County and Municipal governing bodies a "dollar-for-dollar" amount equal to our annual State Grant-in-Aid.

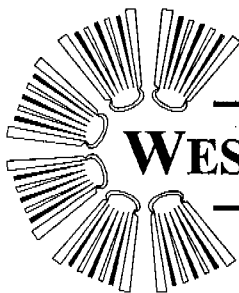
Our County and Municipalities' budgets, to our knowledge, preclude any positive thoughts that they could or would contribute to our financial needs to the degree that would be required by the section under discussion.

We do agree that significant support should be coming from the indicated sources and in improved economic conditions; we fully believe they would be supportive. Our Library system is surviving through the State Grant-in-Aid, a County Excess Levy stipend through the Board of Education, a City of Welch levy, super austere operations, volunteerism, and contributions from interested citizens.

Respectfully,


John E. Caffrey
President-Board of Trustees

cc: Hester Anglin-Board Member
Leta Harman-Board Member
Willard Lowman-Board Member
Jim Sizemore-Board Member
Donna Morgan- Welch Library
James D. Waggoner- Executive Director/ WV Library Commission



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services

J.D. Waggoner, Secretary

May 22, 2006

John E. Caffrey, President
McDowell Public Library
90 Howard Street
Welch, WV 24801

Dear Mr. Caffrey:

On behalf of the West Virginia Library Commission I thank you for the time and effort you and the other board members took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 20, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

Mr. J.D. Waggoner
West Virginia Library Commission
Cultural Center
1900 Kanawha Boulevard
Charleston, WV 25305

Dear Mr. Waggoner:

This is written in the fond hope that the report of a drastic cut in State grants in aid to local public libraries, purportedly proposed and supported by you and WVLC, is incorrect.

I will not cite the obvious need in rural areas of the state or data of inadequate resources for educational/cultural/recreational activities in the State. I will state that my experience as an educator indicates how important libraries are to the children of the communities as indicated by circulation numbers and the myriad of activities associated with local libraries. We would agree that any diminution of State support for local libraries would cause harm to the development of our State's greatest asset and hope for a better future- our children.

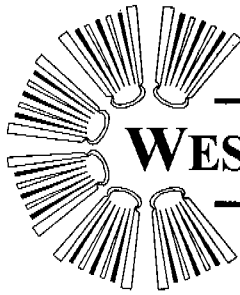
It was obvious to me as a college professor in Pennsylvania, New York and West Virginia how severely disadvantaged students from rural WV counties were in terms of education and cultural background familiarization, experiences and knowledge. My experience as a manager and administrator in the public and private sectors confirmed these disadvantages in that many WV young adults lost employment opportunities and life chances because of the effects of persistent and cumulative educational and cultural poverty- an unspoken blight. It starts early and one place that can be a positive, beneficial influence is the local library. The situation calls for, indeed demands, continued adequate State support. Local support for library depend on the devoted commitment of the few and the strained, too inadequate local resource base, so is inadequate.

I know your role is difficult-been there, done that- and am sure sufficient State aid can be found to benefit the children and young people of the State and you will do your best under the circumstances. This note is an effort to provide you with some little evidentiary support to persuade the less committed to sustain and, even improve, the local libraries of our State.

Respectfully yours,



Albert J. Ossman Jr., PhD
Professor Emeritus of Political Science
Bethany College, Bethany, WV



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Albert J. Ossman, Jr., PhD
Bethany College
300 Main Street
Bethany, WV 26032

Dear Dr. Ossman:

On behalf of the West Virginia Library Commission I thank you for the time and effort you and the other board members took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of February 28, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

Howard Metheny
218 Jaycee Avenue
Terra Alta, WV 26764

March 1, 2006

Mr. J.D. Waggoner
West Virginia Library Commission
Cultural Center
1900 Kanawha Boulevard
Charleston, WV 25305

re; Working Draft #3
January 27, 2006

I am writing concerning section 173-1-3. Requirements for Receiving Grants.
Part 3.4

I have been associated with our library as Mayor when the Library was first started in 1972, and a Library Trustee for 33 years and serve as the current Treasurer.

I wish to inform you that having been associated with the Library since it's beginning and knowing what the local funding has been generated yearly over the past years of \$2,000.00 to 2,500.00, there is just no way we could operate our Library on Grant In Aid funding of just matching our local donations. We are currently receiving \$47,000.00 per year.

Our town is not in position to put forth a Levy due to the town's current obligations, with new water and sewer projects.

We started out Library in 1972 by turning over one small room of our Town Hall and have since moved three times and now operate our Library in the new Town Hall building with square footage of 5,500 square feet.

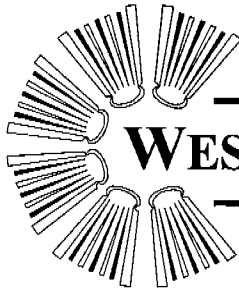
We believe we have one of the finest Library's in this state region and do a great job of serving our statistical area. Just compare our statistical numbers with the other Library in Preston County. We cannot continue this without the full Grant In Aid.

We have currently 4,116 borrowers in our service area. Therefore we are in desperate need of the Grant In Aid we are receiving now in order to continue operating.

Sincerely,

Howard M. Metheny

cc Delegate Debbie Stevens
cc Senator Jon Hunter
cc House Of Delegates



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Howard Metheny
218 Jaycee Avenue
Terra Alta, WV 26764

Dear Mr. Metheny:

On behalf of the West Virginia Library Commission I thank you for the time and effort you and the other board members took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 1, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

Terra Alta Public Library

701 - B East State Avenue
Terra Alta, West Virginia 26764
Phone and Fax (304) 789 - 2724

March 1, 2006

J.D. Waggoner,

I have had plenty of time to think over your Working Draft #3 and I cannot understand your reason of thought for cutting our budget to a matching of funds from our Town.

In going over some years, numbers and figures, I am obviously not seeing what you have.

Opening in 1972 with donations only, we have grown of course, but the figures amaze me when you consider us one of the very smallest libraries in West Virginia. We have moved three times for more space.

Some varied years and facts:

1974 circulation 2,789

1988 circulation 22,147 1,748 borrowers budget 35,056

1996 circulation 35,262 2,275 borrowers budget 44,091

2005 circulation 63,138 4,116 borrowers budget 52,722

The past six years we have struggled with the same amount in our budget but this has not kept us from keeping our patrons happy and satisfied. Isn't that what libraries are for? Many feel that West Virginians are dumb and hillbillies. I totally disagree. I do feel if we cannot supply readers with material of knowledge and information this could become a reality.

We can not keep our doors open with your proposal of matching funds.

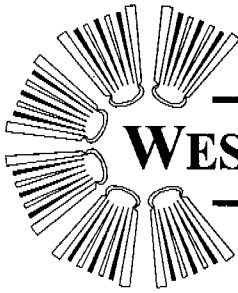
I am asking you to reconsider this or explain to me how you see fit to do this. Several of our patrons are writing letters with their concerns as they were devastated when we shared the information with them. I felt they had a right to know this as they are who I work for and with.

I am looking forward to your visit on March 21. Have a safe trip.

Sincerely,

Ima Thomas

Ima Thomas



WEST VIRGINIA LIBRARY COMMISSION

To promote, assist, and support the development of Library Services
J.D. Waggoner, Secretary

May 22, 2006

Ima Thomas, Director
Terra Alta Public Library
701-B East State Avenue
Terra Alta, WV 26764

Dear Ms. Thomas:

On behalf of the West Virginia Library Commission I thank you for the time and effort you and the other board members took to review and comment on Working Draft #3 of the Administrative Rules and Regulations of the agency in your letter of March 1, 2006. Staff working on the rules carefully considered all of the comments.

The revision of agency rules is a lengthy and complex process that requires interest such as yours to be successful.

Yours truly,

Karen Goff, Director
Library Development Services

**WVLC Administrative Regulations
Revisions made in Response to the
Public Hearing and Public Comment Period**

Pre-Public Comment/Hearing Language

2.6. Consortium – A formal cooperative established and developed to improve library services and resources. It may be restricted by geographical area, established for specified purposes, initiated by the West Virginia Library Commission, or a library. It requires formal agreements concerning purpose, membership, administration and procedures and may include other entities. Libraries may enter into any number of consortia agreements that meet the definition of this rule and are approved by the Library Commission.

Revised Language

(Revised language underlined)

2.6 Consortium – A formal cooperative established and developed to improve library services and resources. It may be restricted by geographical area, established for specified purposes, initiated by the West Virginia Library Commission, or initiated by a library. It requires formal agreements concerning purpose, membership, administration and procedures and may include non-library entities. Libraries may enter into any number of consortia agreements that meet the definition of this rule and may request formal approval of the Library Commission.

Explanation

Language was added to clarify that either the Library Commission or an individual library could initiate a consortium, that it could include non-library entities, and that formal approval by the Library Commission was an option, not a requirement.

Pre-Public Comment/Hearing Language

None

Revised Language

(Revised language underlined)

2.16 Local Funds - revenue received from local sources for operating expenditures of the public library. Local tax based revenue includes all local government funds designated by the county commission, board of education, or municipality for the public library. Non-tax based local revenue includes all other funds such as monetary donations, interest, library fines, fees for library services, or grants.

Explanation

The term "Local Funds" was not included in the Pre-Public Comment/Hearing Proposal. Comments concerning the requirement for a

local funding match led Library Commission staff to add this definition so that there was a clear statement of exactly what was meant by tax based and non-tax based local funds.

Pre-Public Comment/Hearing Language

3.1. The Library Commission shall determine by review of required reports or evaluation visits whether a public library meets the following eligibility requirements.

Revised Language

(Revised language underlined)

None

Explanation

The part above was removed in response to a comment that pointed out that the same sentence was repeated in 4.1. Staff review agreed that repetition was not necessary and that the statement properly belonged in section 4. As a result, Section 3 was renumbered.

Pre-Public Comment/Hearing Language

3.12.d. A development plan for at least three years and no more than five years is submitted periodically to the Library Commission.

Revised Language

(Revised language underlined)

3.11.d. As determined by the scope of the plan, the public library regularly submits to the Library Commission a development plan for at least three years and no more than five years.

Explanation

The language was revised to make it clear that regular submission of a development plan is a requirement but that libraries have the option of choosing to submit a three, four, or five year plan. The intent is to accommodate those libraries that already plan on these intervals. The numbering is different because Section 3 was renumbered.

Pre-Public Comment/Hearing Language

None

Revised Language

(Revised language underlined)

3.12.b. Staff of a library assigned to a Service Center Library is required to attend the annual staff development workshop sponsored by the Service Center.

Explanation

This language was added after informal conversations with directors of Service Center libraries concerning the requirement that the Service Center library present an annual staff development workshop had no corresponding requirement that assigned libraries attend the workshop.

Pre-Public Comment/Hearing Language

3.17. The public library makes accessible to all state residents the statewide services and programs provided by the Library Commission at no cost to libraries.

Revised Language

(Revised language underlined)

3.16 The public library provides public access to informational services and programs provided by the Library Commission at no cost to libraries.

Explanation

Added in response to a comment indicating unease with the non-specificity of "statewide services and programs". It was felt that this language restricted local libraries from choosing integrated library systems other than those provided by the Library Commission. The term "informational" was added to lessen this unease. The numbering is different because Section 3 was renumbered.

Pre-Public Comment/Hearing Language

None

Revised Language

(Revised language underlined)

4.4 Failure to meet any requirements other than those described in sections 3.3 and 3.4 of this rule, will result in the public library forfeiting a portion of its Grant-in-Aid. Such portion will be determined by the Library Commission.

Explanation

This statement, which was part of a previously posted working draft, was inadvertently omitted from the Pre-Public Hearing language. It emphasizes the importance of the service requirements as well as the funding requirements by attaching a consequence for failure to meet the additional requirements.

Pre-Public Comment/Hearing Language

7.2.a. To form a consortium with libraries assigned by the Library Commission with formal agreements concerning services provided with

state funds to consortium members. The Library Commission assigns members of each Service Center Library consortium.

Revised Language

(Revised language underlined)

7.2.a. To reach a formal agreement with each consortium member regarding assistance provided with the Services to Libraries Grant or administrative fee;

Explanation

Language was revised to make the responsibility of the Service Center library more specific. It was pointed out that the consortium is actually formed by the Library Commission not the Service Center Library.

Pre-Public Comment/Hearing Language

7.2.e. To annually evaluate the collections, fiscal management, and operations of each assigned library and report the results to the library and the Library Commission.

Revised Language

(Revised language underlined)

7.2.e. To evaluate the collections, fiscal management, and operations of each assigned library and report the results annually to the library with a copy to the Library Commission;

Explanation

Language was revised to indicate that the purpose of the evaluation is to assist the assigned library.

Pre-Public Comment/Hearing Language

8.1. Other grants that further library service in the state may be distributed by the Library Commission. Libraries submit applications for other grants on forms provided by the Library Commission. Only libraries meeting requirements enumerated in sections 3.2 through 3.19 of this rule may apply for these grants.

Revised Language

(Revised language underlined)

8.1. The Library Commission may distribute other grants that further library service in the state. Any public library is eligible to apply for these grants. Grant priorities and qualifications are determined annually by the Library Commission.

Explanation

The language was revised in response to comments concerning the inability to meet the match requirement of 3.3. While the former language restricted application for Other Grants to only those libraries meeting all requirements for Grants-in-Aid, the new language permits all libraries to apply, even those that do not meet the Grants-In-Aid requirements.

Pre-Public Comment/Hearing Language

10.1. All appeals of a decision by the Secretary of the Library Commission shall be submitted in writing to the chairman of the Library Commission and the Secretary of the Library Commission no later than two weeks prior to any meeting of the Library Commission. Any appeal concerning Grants-in-Aid or library assignments must be submitted in writing to the chairman of the Library Commission and the Secretary of the Library Commission no later than two weeks prior to the April meeting of the West Virginia Library Commission.

10.2. The appeal shall contain the following information:

- 10.2.a. Name and address of the public library;
- 10.2.b. Signature of a library trustee, preferably the president;
- 10.2.c. Statement of the grounds of protest;
- 10.2.d. Supporting documentation, if applicable; and
- 10.2.e. The resolution sought.

10.3. Failure to submit all information shall be grounds for rejection of the protest by the Library Commission.

10.4. The Secretary will place the appeal on the agenda for the next regular meeting and the grievant may make an oral presentation.

10.5. The Library Commission shall review the matter of grievance and issue a decision no later than the next regular meeting.

10.6. The Library Commission may refuse to review any grievance that has been decided in a previous protest.

Revised Language

(Revised language underlined)

10.1. Any appeal of a decision related to the Administrative Regulations shall be submitted in writing to the Chairman of the Library Commission and the Secretary of the Library Commission.

10.2. The appeal shall include the following:

10.2.a. Name and address of the library

10.2.b. Statement of the decision being appealed

10.2.c. Signatures of the Library Director and president of the board of library directors.

10.2.d. Supporting documentation

10.2.e. Resolution sought

10.3. Failure to submit any of the above shall delay the consideration of the appeal by the Library Commission.

10.4. The Secretary will review each appeal and determine if it has been adjudicated previously. If not, The Secretary will place the appeal on the agenda for the next regular meeting of the Library Commission and inform the appellant.

10.5. The appellant shall inform the Secretary if a brief oral presentation will be made at the Commission meeting. Presentations must be limited to ten minutes unless extended by action of the Commission.

10.6. The Library Commission shall review the appeal and issue a decision no later than the next regular meeting.

Explanation

In response to comments supporting the appeal process but asking for a refinement of the procedures, the entire section was re-written. The intent is to provide a formal process that requires specific actions on the part of both the appellant and the Commission without being so restrictive as to discourage appeals.