

Students as Members of the Board

Initial question from trustee: I am the Chairman of Public Library Board of Trustees. We are exploring the idea of having a High School student as a trustee and are asking for your assistance in determining whether or not we can do this and maintain a legal Board of Trustees. Our primary goal in pursuing this is to be even more involved with the schools along with generating additional interest in the library. Our current ideas include having a student who is a sophomore and would hold the position for 3 years. Questions include: Can they be a voting member? Can a trustee be under 18 years of age? Can the Board exceed 5 members if the student is nonvoting and perhaps titled an "advisory member"? I have reviewed the MT Trustees Handbook and have not found anything that might restrict this other than the fact that we do have a full Board in place.

Response from Tracy Cook – May 17, 2011

1. I believe you are a city or city/county library. Is that correct? If so your board of trustees is appointed according to MCA 22-1-308 (<http://data.opi.mt.gov/bills/mca/22/1/22-1-308.htm>). This law limits you to 5 board members and after the initial appointment those board members must serve 5 year terms. Because of MCA 22-1-308 the student would legally have to serve a 5 year term, and you would have to make sure that you had no more than 5 members on the board. If your library has some sort of interlocal agreement with the city or county this does vary. Your interlocal agreement decides the length of the terms and board members. In general agreements that I have seen keep the same rules as MCA 22-1-308, but if you have one it might be different. If you do have an agreement please let me know and we can visit about what that might mean for you. Not all interlocal agreements are the same in terms of whether or not they are governing documents.
2. MCA 28-2-201 (<http://data.opi.mt.gov/bills/mca/28/2/28-2-201.htm>) talks about who has the power to contract. It does state that with only a few exceptions minors are not capable of contracting. Two exceptions are student loans and insurance. In MCA 22-1-309 (<http://data.opi.mt.gov/bills/mca/22/1/22-1-309.htm>) boards are given the power to enter into contracts, so I'm not sure that legally a minor could vote to enter into a contract when technically by law they aren't allowed to sign contracts. There may be other similar issues that would make it difficult for a minor to vote on a particular issue.

For both of these reasons I would like to recommend that you add a student member as "ex-officio" meaning that they can advise, but not vote. I would also like to recommend changing your board bylaws to reflect this. Your bylaws can state that you will have a student "ex-officio" member and can give the length of term and information about what is expected of the student. I believe other libraries have created something like this as well and have found it very helpful. I would be happy to ask if other libraries have done this and see if they have examples of by-laws if you would like me to do so.