



CPL Director <director@catskillpubliclibrary.org>

[MHLS-Notice] TIME SENSITIVE - ACTION MEMO #21-07: Member Library Board Approval of the MHLS Direct Access Plan

1 message

Rebekkah Smith Aldrich <rsmith@midhudson.org>
To: "mhls-notice@googlegroups.com" <mhls-notice@googlegroups.com>

Fri, Nov 12, 2021 at 3:43 PM

Good afternoon,

As part of the process to approve our 2022-2026 Plan of Service the NYS Division of Library Development (DLD) is now requiring member library boards to vote to approve the Direct Access Plan. This plan has already been unanimously endorsed by the DA and the MHLS Board of Trustees. If a simple majority of member library boards approve it as well, we will be all set in the eyes of DLD.

Background:

The Free Direct Access Plan (FDAP) is a State approved agreement between the Mid-Hudson Library System (MHLS) and the State Education Department's Division of Library Development of the New York State Library and is required by Commissioner's Regulations 90.3 (a) through (d)(4). The FDAP reflects MHLS' commitment that no resident in the area served by MHLS will be excluded from direct or on-site access to the resources of any of the system's member libraries on the basis of age, cultural, economic or civic status. The FDAP provides the process for member libraries to identify and place restrictions on excessive and unfair use of resources that have a negative impact on services a member library provides their resident borrowers. This plan is a required element of the MHLS Plan of Service.

Issue:

Earlier this year an ad hoc committee was formed to review the current FDAP and propose a new draft for the 2022-2026 Plan of Service submission. The plan is largely unchanged from the current FDAP apart from the removal of a restriction that was not technically possible and the inclusion of a restriction on patron and staff-placed holds in qualifying situations. This draft was provided to the System Services Advisory Committee of the Directors Association and the Personnel & Planning Committee of the MHLS Board of Trustees for their review and recommendation earlier this year. Both committees unanimously recommended this document for approval to their respective peers. The draft was approved by the full MHLS Directors Association in June 2021 and by the MHLS Board of Trustees in July 2021. Now the state has clarified that it would like this plan reviewed and approved by a majority of member library boards as well.

Action:

1. Please add this action item to your library board's next agenda for their consideration. The document is attached to this email.
2. Once your board votes on whether or not to approve it, please fill out this form to report the results.

Deadline: ASAP

If you, or your trustees, have any questions, please do not hesitate to reach out to me.

Thank you,
Rebekkah

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Rebekkah Smith Aldrich
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 **Direct-Access-Plan_Final_July2021.pdf**
323K

8 CRR-NY 90.3
NY-CRROFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 8. EDUCATION DEPARTMENT
CHAPTER II. REGULATIONS OF THE COMMISSIONER
SUBCHAPTER D. LIBRARIES
PART 90. PUBLIC AND FREE ASSOCIATION LIBRARIES8 CRR-NY 90.3
8 CRR-NY 90.3

90.3 Approval of public library systems.

(a) *Definitions*, for purposes of this section:

- (1) *Public library system* means a library established by one or more counties, a group of libraries serving an area including one or more counties in whole or in part, a library of a city containing one or more counties, or a cooperative library system established pursuant to the provisions of section 255 of the Education Law.
- (2) *Approved plan of service* means a plan of library service submitted by a public library system board of trustees in accordance with section 272 of the Education Law that has been approved by the commissioner pursuant to the provisions of this section. The plan of service defines the mutual commitments, responsibilities and obligations of the public library system and its members in meeting the service needs of the area served and statewide library service goals.
- (3) *Direct access* means the ability of an individual, who resides within the boundaries of a public library system and who has a valid borrower's card issued by the system or any member library in the system, to borrow materials for home use directly from the premises of any library that is a member of the public library system on the same basis as that specified for cardholders in each individual library.
- (4) *Chartered service area* means the geographic area served by a library as stated in charter documents approved by the Board of Regents and on file with the department. For purposes of this section, the phrase "and its environs" or its equivalent as contained in any charter document will not be recognized by the commissioner as a valid part of the library's chartered service area. For purposes of this section, the commissioner will not recognize areas served by the library under contract as a valid part of a library's chartered service area.
- (5) *Resident borrower* means an individual who resides within the boundaries of the chartered service area of a public or association or Indian library as defined in section 253 of the Education Law and who is a library cardholder at that library.
- (6) *Nonresident borrower* means an individual who resides outside the boundaries of the chartered service area of a public or association or Indian library as defined in section 253 of the Education Law and who is a library cardholder at that library or at another member library of the public library system or who is a system cardholder.
- (7) *Library resources* means the print and nonprint materials owned by the library and any other services provided by the library to the resident borrowers of the library's chartered service area.
- (8) *On-site use* means the ability of an individual to use library resources on the premises of a library.
- (9) *Serious inequities and hardships* means those conditions which adversely affect resident borrowers of member libraries. Such conditions are defined in accordance with the free direct access provisions contained in each system's approved plan of service and may include, but are not limited to, a definition of what constitutes excessive borrowing of a library's resources by nonresident borrowers.
- (10) *Unserviced* means those individuals residing in geographic areas that are within the boundaries of a public library system but outside the boundaries of a chartered service area of a library which is a member of that system.
- (11) *Underserved* means those individuals residing in geographic areas that are within the chartered service area of a member library and which the public library system has identified as having an inadequate level of local income to support the delivery of acceptable library services.

(b) A public library system may be approved for State aid under sections 272 and 273 of the Education Law if it complies with the provisions of the aforementioned sections of the Education Law and the provisions of this section.

(c) Full approval shall not be given to a public library system unless it will serve at least 200,000 people or 4,000 square miles of area. Provisional approval may be given to a public library system which will serve at least 50,000 persons, provided the area includes three or more political subdivisions, and provided further that a satisfactory plan is submitted for expansion of service during the ensuing five-year period.

(d)

(1) In order to qualify for full approval, a public library system plan of service shall provide for:

(i) on-site use, by all individuals residing within the boundaries of the public library system, of the total library resources within the system. No such individual shall pay a fee for such on-site use. No such individual shall be excluded from on-site use of the library resources of the system or any of its member libraries because of age, cultural, economic or civic status;

(ii) direct access, by all individuals residing within the boundaries of the public library system, to the library resources within the system, by acceptance of a borrower's card issued by the system or by any member library in the system. Such card shall be issued at no cost to the individual and shall be honored on the same basis as that specified for resident borrowers in each member library. No resident shall be excluded from direct access to the library resources of the system or any of its member libraries because of age, cultural, economic or civic status;

(iii) a procedure, whereby member libraries may discuss, modify or amend the conditions, procedures, and agreed upon means of implementing, changing or altering the conditions of direct access within the system service area pursuant to paragraphs (2) and (3) of this subdivision. The system board of trustees, prior to submission of a plan of service for approval by the commissioner, shall by majority vote of the member libraries obtain ratification of the direct access provision. The plan shall be accompanied by a statement of agreement signed by the president of the public library system board of trustees and the presidents of the board of trustees of a majority of the member libraries;

(iv) an analysis of the library resources available to unserved and underserved populations residing within the system's boundaries in a format prescribed by the commissioner. Such analysis shall include, but shall not be limited to:

(a) a description of the unserved and underserved populations residing within the system's boundaries;

(b) a description of any deficiencies in library resources currently available to individuals residing within the system's boundaries;

(c) a summary of recommended actions to expand the availability of library resources to unserved and underserved populations residing within the system's boundaries;

(d) a timetable for taking action on recommendations; and

(e) assignment of responsibilities for providing library resources to unserved and underserved populations.

(2) Subject to the approval of the majority of the member libraries, certain modifications to unrestricted direct access as described in subparagraphs (ii) and (iii) of this paragraph may be made without the approval of the commissioner. An approved plan of service must describe the conditions under which such modifications will be implemented. If such conditions change, the public library system shall submit an amendment of the plan of service to the department in a format and according to a timetable established by the commissioner. The plan shall describe the conditions under which registered member libraries:

(i) shall not be required to provide free direct access to their materials and services to residents of a jurisdiction of 10,000 population or more which has not exercised the authority contained in section 255 of the Education Law, or other pertinent legislative act, to establish and maintain a public library, or which is not contracting for public library service in accordance with section 256 of the Education Law;

(ii) may place restrictions upon the loan of library resources. Such restrictions shall be limited to nonprint materials and equipment, and printed materials less than one year old, including fiction and nonfiction books and periodicals. Such materials must have been purchased from local funds; and

(iii) may place restrictions upon attendance at library programs. If attendance must be limited, local residents may be given first access to them. Such programs must have been supported entirely from local funds.

(3) Subject first to the approval of the majority of the member libraries, and then to the approval of the commissioner, certain additional modifications to unrestricted direct access may be made for individual member libraries beyond those described in paragraph (2) of this subdivision. Such requests from individual libraries, once approved by the majority of the member libraries according to the procedures outlined in subparagraph (1)(iii) of this subdivision, shall be submitted by the public library system to the commissioner for approval in a format and according to a timetable determined by the commissioner. The system board of trustees shall not unreasonably delay consideration of transmission of a member library's request to the commissioner. No such request will be approved if it includes a fee or charge to an individual for a borrower's card. The request for approval of additional modifications to unrestricted direct access shall be in writing and shall include, but is not limited to, the following:

(i) documentation of the serious inequities and hardships affecting the resident borrowers of the member library making the request;

(ii) the proposed modifications to unrestricted direct access that will be implemented and a description of the anticipated impact on resident and nonresident borrowers;

(iii) a proposed timeframe within which such modifications will be in effect; and

(iv) recommendations for remedying the underlying inequity with a proposed timetable for action.

(4) Provisional approval may be granted, provided that each member library of the system shall have the right to borrow for one or more of its cardholders from any other member library of the public library system any book or other material on the same basis as that provided by the lending member library applicable to its resident cardholder.

(5) The provisional approval of a public library system may be extended by the commissioner for a period of not more than three years after the expiration of the original five-year period, upon satisfactory proof that immediate full compliance with paragraph (1) of this subdivision would result in specific extreme hardship to such system or its participating libraries and upon the condition that such public library system submit to the commissioner, prior to such extension, a satisfactory plan for compliance with paragraph (1) of this subdivision within the period of such extension. As a further condition of such extension, the commissioner may require a demonstration by the public library system of free access to a portion of the population served by such system. Each such library system shall annually submit a report of progress toward full compliance with paragraph (1) of this subdivision.

(e) Each system shall submit a plan which shall include a description of the means by which the various economic, cultural, civic and age groups will be assisted by qualified personnel in deriving maximum benefit from library resources.

(f) Each system shall certify that there will be employed within the library system at least one full-time staff member (or the equivalent) for each 5,000 residents of the area served by the system, exclusive of janitorial, cleaning and maintenance workers. There shall also be employed by each approved system of libraries a director who holds or is eligible to receive a public librarian's professional certificate and who has eight or more full years of professional library experience in libraries or systems of libraries of recognized standing satisfactory to the commissioner, at least two years of which shall have been in an administrative capacity. In addition to such director, each approved system shall employ at least three full-time (or the equivalent) certified public librarians who shall be engaged solely in services which are administered by the system, exclusive of librarians employed in technical processing or in federally funded positions.

(g)

(1) For full approval, each system shall add annually at least 4,000 titles not previously held by the system.

(2) For provisional approval each system shall add annually at least 2,000 titles not previously held by the system.

(h) Each system shall provide a means of location of materials added in the libraries of the system.

(i)

(1) Each system shall prepare annually a budget (statement of receipts and appropriations) on forms prescribed by the Commissioner of Education, and file such budget with the department within 60 days after the beginning of the calendar year.

(2) Whenever the apportionment of State aid to any system shall be increased, the system shall file with the department an amended budget showing how such increase will be used for the improvement of library services.

(j) The plan of service of each public library system shall be revised periodically on a schedule to be determined by the commissioner.

(k) The plan of each public library system shall provide for coordination of the reference and interlibrary loan programs and functions of the public library system with the approved plan of the reference and research library system of which it is a member. Each proposed revision of such plan shall be accompanied by a statement that the proposed revision has been transmitted to the board of trustees of the reference and research library system of which the public library system is a member, prior to its submission to the commissioner.

(l) Coordinated outreach services.

(1) Definitions.

As used in this subdivision:

(i) Solely for the purposes of Education Law, section 273(1)(h), *coordinated outreach services* shall mean a planned and integrated program of library services designed to identify, contact and serve persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, developmentally or learning disabled, aged or residents of institutions.

(ii) *Institutions* shall mean correctional facilities, hospitals, youth facilities, nursing homes, developmental centers, psychiatric centers and extended care centers.

(2) Eligibility criteria. In order to be eligible for State aid for coordinated outreach services pursuant to the provisions of paragraph h of subdivision 1 of section 273 of the Education Law, a public library system shall:

- (i) be operating under a plan of service which has been approved pursuant to section 272 of the Education Law;
- (ii) include in its plan of service, subject to approval by the commissioner, a description of how coordinated outreach services to persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, developmentally or learning disabled, aged or residents of institutions will be developed and implemented throughout the public library system service area. Such description shall include, but not be limited to:
 - (a) identification of special populations to be served, including persons who are educationally disadvantaged, members of minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, developmentally or learning disabled, aged or residents of institutions;
 - (b) identification of special needs of such populations;
 - (c) a description of proposed additional or adapted services to meet the identified special needs;
 - (d) a description of methods for coordination of expenditures and services in programs supported by coordinated outreach services funds provided under Education Law, section 273(1)(h), State funds provided for services to local correctional institutions, other public library system funding and as appropriate, local funds;
 - (e) a description of cooperative efforts with representatives from Federal, State and local institutions; or
 - (f) a description of system efforts to assist libraries to comply with State and Federal laws regarding coordinated outreach target populations;
- (iii) certify that there will be employed by the library system at least one full-time professional librarian who holds or is eligible to receive a New York State public librarian's professional certificate with expertise in outreach services who shall administer the coordinated outreach program and assist persons who are educationally disadvantaged, members of minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, developmentally or learning disabled, aged or residents of institutions in deriving maximum benefit from library resources;
- (iv) appoint an advisory council of not less than 5 nor more than 11 members, which shall be composed of one director of a member library; representatives of agencies who serve the target population groups detailed below; and persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, developmentally or learning disabled, aged or residents of institutions. Council members shall serve three-year terms. The council shall meet at least twice each year, shall advise the public library system and assist in the evaluation of activities in the coordinated outreach program; and
- (v) submit to the commissioner, in a format and according to a timetable prescribed by the commissioner, a budget application and narrative describing its coordinated outreach services program.

(m) Family literacy library services grant program.

(1) Definitions. As used in this subdivision and in Education Law, section 273(1)(h)(3):

- (i) *Family literacy library services grant programs* shall mean any eligible services for preschool and school age children and their parents which are new or expanded library and information services beyond those services public library systems and/or their members are currently providing to the designated outreach population through their coordinated outreach plan.
- (ii) *Parents* shall mean any caregiver, parent or guardian of a child between the ages of birth to 18.
- (iii) *Public library service program for family literacy* shall mean any targeted projects or activities or library services which assist families to improve their literacy and pre-literacy skills and which are provided at no cost to the individuals served by library systems or member libraries.
- (iv) *Member library* shall mean a chartered and registered public, free association or Indian library, as defined in section 253 of the Education Law, which is a member of a public library system.

(2) Eligibility criteria. In order to be eligible to apply for a family literacy library services grant pursuant to the provisions of section 273(1)(h) of the Education Law, a public library system shall be operating under a plan of service which has been approved pursuant to section 272 of the Education Law. Libraries shall be chartered and registered pursuant to sections 254 and 255 of the Education Law.

(3) Application. Applications for a grant pursuant to this subdivision shall be in a format prescribed by the commissioner and shall be submitted by a date prescribed by the commissioner.

(4) Content of applications. Each application shall be in a format prescribed by the commissioner. The commissioner may establish for a year or years, a theme, priority, or other parameter for family literacy library services grant projects.

(5) Criteria for approval of application. Approval of family literacy library services grant applications by the commissioner will be based upon the degree to which each project demonstrates:

- (i) a good balance between service provision and collection development;
- (ii) documentation of a need in the community for such a project;
- (iii) that a qualified person will coordinate the project activities;
- (iv) the quality of the project plan and community involvement;
- (v) institutional commitment to providing family literacy library services;
- (vi) potential to be replicated;
- (vii) description of a means for disseminating information about project design, implementation, and results; and
- (viii) appropriate means for evaluation of the project, including quantitative and qualitative measures and an explanation of how evaluation results will be used.

(6) Allowable costs.

(i) Costs eligible for approval shall include the reasonable cost not to exceed the amount of the grant, of:

- (a) library materials used to improve family literacy library services;
- (b) equipment for use in providing family literacy library services;
- (c) personnel expenses except for existing full-time library or library system staff;
- (d) supplies;
- (e) contracting with independent contractors for the provision of services designed to assist family literacy library services;
- (f) publicity designed to encourage participation of parents and children in need of family literacy library services;
- (g) appropriate means for evaluation of the project including quantitative and qualitative measures and an explanation of how evaluation results will be used; and
- (h) such other costs as may be approved by the commissioner.

(ii) Costs ineligible for approval shall include, but shall not be limited to:

- (a) building modification or construction;
- (b) overhead or administrative costs; and
- (c) subsidizing personnel expenses for existing full-time library or library system staff.

(7) Schedule of payment of State aid for family literacy library services.

(i) Ninety percent payment of the grant amount awarded for approved costs will be paid following approval by the commissioner for funding.

(ii) The remaining 10 percent payment of the grant amount awarded will be paid after submission of satisfactory evidence establishing that the project has been completed in accordance with the approved application and after submission of a final project report approved by the department.

(n) Adult literacy library services grant program.

(1) Definitions. As used in this subdivision and in Education Law, section 273(1)(h)(2):

- (i) *Adult literacy library services grant program* shall mean a public library service program for adult literacy planned and operated in direct coordination with local public schools, colleges or other organizations which are operating similar adult literacy programs, which is designed to initiate, enhance or extend services to adults to increase their literacy skills.
- (ii) *Adult* shall mean any person 16 years of age or older who is not currently attending public or nonpublic secondary school as a full-time student.

(iii) *Literacy skills* shall mean the minimal skills an individual needs to read and comprehend the English language up to and including the sixth grade level.

(iv) *Public library service program for adult literacy* shall mean any targeted projects or activities or library services which assist adults to improve their literacy skills and which are provided at no cost to the individuals served, by library systems or member libraries.

(v) *Direct coordination* shall mean that that adult literacy services are jointly planned and carried out in conjunction with one or more organizations which operate similar adult literacy programs.

(vi) *Organization which operates similar adult literacy programs* shall mean an organization which offers a program of services to adults to help increase their literacy skills and which is:

- (a) a school district or board of cooperative educational services;
- (b) a postsecondary institution authorized to confer degrees in this State; or
- (c) a not-for-profit corporation or association which provides instruction on a not-for-profit basis.

(vii) *Member library* shall mean a chartered and registered public, free association or Indian library, as defined in section 253 of the Education Law, which is a member of a public library system.

(2) Eligibility criteria. In order to be eligible to apply for an adult literacy library services grant pursuant to the provisions of section 273(1)(h) of the Education Law, a public library system shall be operating under a plan of service which has been approved pursuant to section 272 of the Education Law. Libraries shall be chartered and registered pursuant to sections 254 and 255 of the Education Law.

(3) Application.

(i) Applications for a grant pursuant to this subdivision shall be in a format prescribed by the department and shall be submitted by a date prescribed by the commissioner.

(4) Content of applications. Each application shall be in a format prescribed by the commissioner. The commissioner may establish for a year or years a theme, priority, or other parameter for adult literacy library services program grant projects.

(5) Criteria for approval of an application. Approval of adult literacy services applications by the commissioner will be based upon the degree to which each project demonstrates:

- (i) direct coordination with one or more public schools, colleges or any organizations which offer similar adult literacy services;
- (ii) a good balance between service provision and collection development;
- (iii) documentation of a need in the community for such a project;
- (iv) that a qualified person will coordinate the project activities;
- (v) the quality of the project plan and community involvement;
- (vi) institutional commitment to providing adult literacy library services;
- (vii) potential to be replicated;
- (viii) description of a means for disseminating information about project design, implementation and results; and
- (ix) appropriate means for evaluation of the project including quantitative and qualitative measures and an explanation of how evaluation results will be used.

(6) Allowable costs.

(i) Costs eligible for approval shall include the reasonable cost not to exceed the amount of the grant, of:

- (a) library materials used to improve adult literacy skills;
- (b) equipment for use in providing adult literacy library services;
- (c) personnel expenses except for existing full-time library or library system staff;
- (d) supplies;
- (e) contracting with independent contractors for the provision of services designed to assist adults in improving their literacy skills;
- (f) publicity designed to encourage participation of adults in need of adult literacy services;