



CITY OF SANTA BARBARA LIBRARY BOARD

Central Library

Faulkner Gallery West, 40 East Anapamu Street, Santa Barbara, CA

Tuesday, January 28, 2014

MEETING

12:00 noon

AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES – of November 26, 2013

CHANGES TO THE AGENDA

PUBLIC COMMENT

Any member of the public may address the Library Board for up to two minutes on any subject within the jurisdiction of the Board that is not scheduled for a public discussion before the Board.

OLD BUSINESS

- 1. Library Plaza Project Update**
 - a. Board Recommendations**
- 2. Children's Library Project Update**
- 3. Budget Update**

NEW BUSINESS

- 4. Library Director's Report**
- 5. Review of calendar for 2014**

BOARD/STAFF COMMUNICATIONS

FUTURE AGENDA ITEMS

Confidentiality of Library Records

Next Regular Meeting:

ADJOURNMENT

AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in this meeting, please contact the Library Administration Office at (805) 564-5608. If possible, notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements in most cases.

Materials related to an item on this agenda submitted to the Library Board after distribution of the agenda packet are available for public inspection at the Administration Office of the Central Library, 40 E. Anapamu St. during normal business hours.









1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 324-1720
E-Mail: Catherine.Brown@doj.ca.gov

December 9, 2013

Gerry Maginnity
Acting State Librarian
California State Library
Library & Courts Building I
914 Capitol Mall
Sacramento, CA 95814

RE: Black Gold Cooperative Library System

Dear Mr. Maginnity:

You requested advice regarding a decision of the Administrative Council of the Black Gold Cooperative Library System, which requires each member library in the system to maintain a specific level of funding for materials in the member's budget or, if the member fails to do so, pay a specified amount to the Cooperative System. For the reasons discussed below, we believe that the Administrative Council is not authorized to require member libraries to budget specified amounts for materials or to impose a fine to enforce such a requirement.

An administrative body, such as the Administrative Council, can exercise only the authority and powers that are expressly given to it by statute, and such implied powers as are necessary to implement the express powers or may fairly be implied from the statute granting the express powers. (*Ferdig v. State Personnel Board* (1969) 71 Cal.2d 96, 103-104; *Rich Vision Centers, Inc. v. Board of Medical Examiners* (1983) 144 Cal.App.3d 110, 114; *Addison v. Department of Motor Vehicles* (1977) 69 Cal.App.3d 486, 498; 76 Ops.Cal.Atty.Gen. 11, 15-16 (1993); 68 Ops.Cal.Atty.Gen. 223, 224 (1985).) Any reasonable doubt concerning the existence of an implied power is resolved against the agency. (*Addison v. Department of Motor Vehicles*, *supra*, at p. 498.)

The Cooperative System and Administrative Council are established pursuant to the California Library Services Act. (Educ. Code, § 18700.) The purpose of the Act is to provide all state residents with the opportunity to obtain from their public libraries materials and informational services by facilitating access to the resources of all libraries in this state. (Educ. Code, § 18702.) Among other provisions, the Act authorizes establishment of a cooperative library system to provide services on a regional basis by agreement of existing libraries, and authorizes an administrative council, comprised of the head librarians of the members, to oversee the cooperative system. (Educ. Code, §§ 18710, subd. (c), 18747.) Specifically, the duties of the administrative council include "general administrative responsibility for the system, adopting a

system plan of service, and submitting annual proposals to the state board for implementation of the provisions of [the Act].” (Educ. Code, § 18747.) The Act contemplates that state funding will be available to offset costs incurred by libraries in sharing access to materials (Educ. Code, §§ 18701, subd. (e), 18740, 18743, 18745), and cooperative systems may apply for such funding for system services authorized by the Act. (Educ. Code, § 18746.)

The administrative council is expressly responsible for general administration of the cooperative system, including its services and budget, as distinct from the services and budgets of the member libraries. The Act does not provide the administrative council with any express authority over the budgets or funding of the individual members of the cooperative system. The Act does not authorize the administrative council to expand the available resources of its members, direct the acquisition of new library materials, or impose a fine or penalty on member libraries who fail to comply. Separate statutes provide for the establishment and governance of municipal libraries, county libraries and library districts. (Educ. Code, §§ 18900 et seq., 19100 et seq., 19400, et seq.) The Act does not expressly authorize an administrative council of a cooperative library system to displace the existing governance structures of the member libraries or preempt decisions made by such governing bodies.

In the absence of any express authority to control member budgets or impose fines on members, could such powers be implied? As noted above, an administrative agency has only such implied powers as are necessary to implement its express powers or that may fairly be implied from the statute granting the express powers. In this case, the express duties of the administrative council are limited to general administration of the system and approval of the system’s plan for service and a budget. (Educ. Code, § 18747.) While the ability to control the budgets of its member libraries might be useful, it is not necessary to implement the administrative council’s express powers. The administrative council could instead perform its duties through consensus and cooperation of its members.

Nor is control of the member libraries’ budgets fairly implied. A finding that the administrative council has implied power to control the budgets of its member libraries would be inconsistent with the stated policies of the Act. These policies include reaffirming local control of the government and administration of libraries; encouraging adequate financing of libraries from local sources, with state aid to supplement local funds; encouraging and enabling sharing of resources between libraries; and equitable reimbursement of any participating library for services it provides beyond its jurisdiction or normal clientele. (Educ. Code, § 18703.) Mandating that each member library dedicate a specified amount of its budget for library materials goes well beyond the stated policies of “encouraging” adequate financing and “enabling” sharing of resources. Further, authorizing an administrative council to control the budget of a member library would intrude upon rather than affirm local control of libraries.

For the foregoing reasons, we believe that the Administrative Council of the Black Gold Cooperative Library System is not authorized by the Act to require a member library to maintain a specified level of its budgeted funding for library materials or to pay a fine for failing to comply.

December 9, 2013

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Please contact me if you have any questions about the foregoing.

Sincerely,



CATHERINE H. BROWN
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

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