

The Talking Books Program in Wyoming: Its History and Its Future

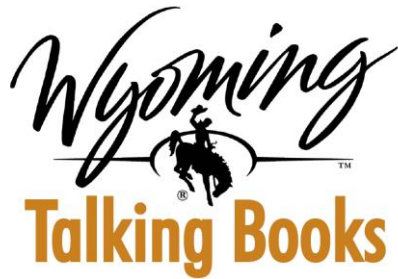
A Policy Paper

Prepared by



September 14, 2021

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FREE Library Services for
Visually, Physically and
Reading Disabled People

*“Blindness is a restriction which prevents free participation in all activities of a community, whether recreational or occupational. The worth of the program for the adult blind and deaf has been demonstrated. The changed mental attitudes as well as the occupational therapy prove the value of this program. * * * The Talking Books Program ensures that citizens of Wyoming who have disabilities that limit their access to print materials have equal access to library services.”*

Virginia Markley, “The Report of the State Supervisor for the Deaf and Blind of the State Board of Education,” to the Wyoming Legislature, 1932-1934 Biennial.

ACKNOWLEDGMENT

Protection & Advocacy System, Inc., expresses its great appreciation to Sherry Leinen, President, and Tom Lealos, Past-President, of the Wyoming Council of the Blind, for their assistance and collaboration in this Policy Paper.

Abstract

Recently, the Talking Books Program (TBP), which has existed for almost a century in Wyoming, was threatened by discontinuance due to funding issues impacting the State of Wyoming. Not only is its existence firmly entrenched in Wyoming law, protections for the population of persons with disabilities also exist under Federal law, providing equal rights to access to services and accommodations. The population of persons potentially benefitting from this program is increasing. Discontinuing the program or limiting its scope would have significant negative impacts to this population, especially into the future. A service this important and necessary should be continued. This Policy Paper highlights important information as a means to provide education and to develop solutions for the program's preservation and continued funding.

Terminating the Talking Books Program would make Wyoming the only state without these vital resources and services.

Problem Statement

Responding to revenue challenges, the Wyoming Department of Education proposed sharply reduced funding of the TPB. The Legislature temporarily restored full funding for the TPB, but only for this biennium. Sufficient ongoing funding for this vital program affecting hundreds of Wyoming citizens is the issue. This Policy Paper seeks to provide information regarding the importance of the TBP, as well as the need for it to continue to be funded in order that affected people with disabilities do not lose the important services provided by the TBP, as well as to achieve compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.

Background

The history of the TBP goes back to the early 1930's and was originally administered by the Board of Charities and Reform. The Board's duties with respect to programs for the "deaf and blind" was legislatively transferred to the WDE, which eventually included the TBP. The TBP is currently administered by the Vision Outreach Services (VOS) Program within the WDE.

Statutory History and Development of the Talking Books Program in Wyoming

In 1921, the State Board of Charities Program was given general supervision of the "deaf and blind."¹ In 1929, the Program was transferred from the State Board of Charities to WDE.² In 1931, the U.S. Congress enacted the Pratt-Smoot Act of March 1931 (Act), which authorized the Library of Congress to administer a project that became known as the "Talking Books Program," in which selected libraries would "serve as local or regional centers for the circulation of books" to adults with vision loss. At the time, eighteen regional libraries were chosen to distribute the books, and the Library of Congress selected fifteen titles to be put into Braille. The Act also created the National Library Service for the Blind and Physically Handicapped (NLS).

¹ House Bill No. 136, 1921 Session Laws Chapter 135.

² Senate File No. 93, 1929 Session Laws Chapter 135

The TBP originally benefitted persons who are blind. Subsequently, it was recognized that blindness is only one of the disabilities that make a person unable to read printed media. Some individuals who have lost the use of one or both hands are unable to hold a book or magazine or turn pages. Others whose visual disability does not meet a strict definition of blindness still cannot see well enough to read standard print. Many persons who had requested talking books were ineligible because the program was specifically limited by law to persons who were blind. The law was amended four times since its original enactment: in 1952, to include children with blindness; in 1962, to include music materials; in 1966, to include individuals with physical impairments who are unable to read standard print; and in 1981, to include individuals with a reading disability based on a physical dysfunction.

The TBP also expanded as new technologies emerged to aid these populations. One program, BARD (Braille and Audio Reading Download), is a library service of downloadable braille and audio-reading material for eligible individuals because of visual or physical disabilities. BARD provides access to thousands of special-format books, magazines, and music scores. All files are downloadable as compressed audio or formatted “ebraille” files. BARD is a partnership between the NLS and its network of cooperating libraries, including the Utah State Library, which provides these and other services and resources to Wyoming citizens. It has been reported that the Utah State Library has expanded to serve over 10,000 patrons in Utah and Wyoming with cassette, large print, and Braille service.

Once the Act became law, WDE joined immediately. In 1931, WDE assigned a Field Agent for services related to the TPB.³ In 1932, the State Supervisor for the Deaf and Blind provided the Legislature with details of services provided through the TBP, which represented the first official report.

In 1993, legislation provided that the State Superintendent’s Office would be responsible for administering adult visually handicapped and visually impaired programs.⁴ This law eventually became codified as Wyoming Statutes § 21-2-304, and in its current form, provides at subsection (b)(xvii) that “Through the state superintendent, implement, administer and supervise education programs and services for adult visually handicapped and adult hearing impaired persons within the state.”

For almost ninety years, the WDE program of Vision Outreach Services, formerly known as Services for the Visually Impaired, has been the sole entity in the State of Wyoming that supports the needs of individuals with visual impairments. The direct support it provides and programs it oversees span the full age range of Wyoming citizens who are blind or have low vision, including:

- Coordination of the National Library Services Talking Books Program in Wyoming, which includes playback equipment maintenance and distribution.⁵

³ Wyoming State Statute 99-201.

⁴ House Bill No. 78 - State Session Law Chapter 56

⁵ The Utah State Library has the special format library materials, has worked with Wyoming patrons, has out of state distribution system in place and staff to provide the service. The WDE enters into periodic contracts for services to Wyoming TBP patrons with the Utah State Library. The current contract is from July 1, 2020, through June 30, 2022.

- Coordination of the American Printing House for the Blind Federal Quota Funds for students in Wyoming who meet the federal definition of legal blindness. This includes certification of eligibility, ordering and distributing large print and braille textbooks and hundreds of specially designed educational resources to educational agencies, maintaining an inventory of this federal equipment, processing, cleaning and reallocating returned equipment.
- Support state agencies in addressing the needs of individuals they serve who are blind or have low vision, through assessment, direct training to individuals with visual impairment, adaptive equipment provision and access to state and federal programs overseen by VOS.⁶
- Support to state agencies in assessing and meeting the needs of their employees who have low vision or are blind, as required under the Americans with Disabilities Act (ADA).
- Participation in state and local working groups that need to include the perspective of individuals who have low vision or are blind.

Throughout its history in Wyoming, neither the importance of the TBP nor its funding have been issues. However, in 2020, largely as the result of economic downturns in the State impacting revenue, Governor Gordon mandated agencies to cut their budgets. Consequently, the WDE like other agencies presented proposed budget reductions, which would be submitted at the 2021 legislative session. With respect to the TBP in particular, the WDE proposed to eliminate approximately \$60,000. As part of WDE's plan to meet Governor Gordon's mandates, the TBP had been identified as a program that could continue to operate at a decreased expense to the general fund if WDE received more help with its administration.⁷ Accordingly, WDE explored possible options such as funding to the State Library and county libraries across the state along with assignment of portions of the TBP, as a means of continuing to carry out the State's legal obligations and provide necessary accessibility to state library resources. WDE stressed that without additional funding, the continuation of the TBP is uncertain, although recognizing that this program benefits several hundred people across Wyoming who rely on it for access to free library services.

Continuation of the TPB is essential for the State to comply with Title II of the ADA and Section 504 of the Rehabilitation Act. The ADA, passed in 1990, established broad anti-discrimination protections for people with physical or mental impairments that substantially limit one or more major life activities, people with a record of such an impairment, or those regarded as having such an impairment. 42 USC § 12101. Title II of the ADA (applicable to state and local governments) provides, in relevant part, that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities by a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132.

⁶ This support is most commonly provided to Department of Corrections at all of their correctional facilities, Department of Health – Behavioral Health Division, Wyoming Life Resource Center, Wyoming State Hospital, University of Wyoming, and all Community Colleges.

⁷ Source: Letter dated June 17, 2020, from Dicky Shanor and Trent Carroll to Director Tricia Bach and State Librarian Jamie Markus, Subject: General Fund Reduction Plan-Talking Books Program.

Section 504 of the Rehabilitation Act protects any “otherwise qualified individual” from “be[ing] excluded from the participation in, be[ing] denied the benefits of, or be[ing] subjected to discrimination” under specified programs “solely by reason of her or his disability.” 29 U.S.C. § 794(a). Section 504 guarantees “meaningful access” to programs or activities receiving federal financial assistance for otherwise qualified handicapped individuals. ADA regulations applicable to public accommodations specifically list visual impairment as one of the conditions considered a disability and “seeing” as a major life activity. 29 CFR § 36.104(c). The U.S. Department of Justice (DOJ) has resolved at least one complaint involving a device that was not accessible to persons with visual impairments based upon alleged ADA as well as Section 504 violations.⁸ Courts also have entertained civil actions to proceed under ADA and Section 504 for alleged violations of infringement of accessibility or use of services to persons with visual impairments.⁹

Laws creating programs such as the “Talking Books Program” are intended for the benefit of people who are blind or have visual impairments, reading and learning disabilities, physical disabilities, cognitive impairments, or any other condition interfering with reading printed material. The TBP also provides access to printed materials in alternative formats for individuals who are unable to read print. In short, Talking Books Program patrons statewide depend on the Program daily to enhance life. In addition, Federal laws, such as the ADA and Section 504 provide a basis for the protection from such people with disabilities being denied such benefits. Federal law also requires equal access to all written materials for people with disabilities.

Data Reflecting Populations Impacted

From a population standpoint, Wyoming is not a large state. Data from the U.S. Census indicates that in 2018, the “Total Civilian Noninstitutionalized Population” was estimated to be 571,923, in which the population for persons with a disability was estimated to be 74,431, which represents 13.0 percent of the totals. In addition, the total population “under 18 years” was estimated to be 137,204 of which 5425 was estimated as the population in this category with a disability representing 4.0 percent. In the age category of “18 to 64 years” was estimated to be 349,290 of which it was estimated that 38,036 was also “with a disability” representing 10.9 percent. It was estimated that 85,429 were in the age category of “65 years and over,” of which it was estimated that 30,970 was with a disability, which represented 36.3 percent.¹⁰

In 2019, the “Total Civilian Noninstitutionalized Population” estimate increased to 568,859 of which represents 13.4 percent or 76,337 was “with a disability.” The age categories also reflect the following:

⁸ Letter of Resolution, D.J. No. 202-48-213 Princeton University, at <https://www.ada.gov/princeton.htm> (accessed 09/02/2020). See also, Letter of Resolution, D.J. No. 202-51-312 Pace University, at https://www.ada.gov/pace_univ.htm (accessed 09/02/2020).

⁹ See, e.g., *Cudak v. Griffen*, 2016 U.S. Dist. LEXIS 33345, 9:14-CV-1047, (March 14, 2016, Dist. N.D. New York); *Cochran v. Pinchak*, 401 F.3d 184 (3d Cir. 2005).

¹⁰ Source: U.S. Census Bureau at <https://data.census.gov/cedsci/table?q=0400000US56&y=2018&d=ACS%205-Year%20Estimates%20Data%20Profiles&tid=ACSDP5Y2018.DP02&hidePreview=true> (accessed 09/02/2020).

	Total w/in Population	With a disability	Percentage
Under 18 years	133,700	6,189	4.9
18 to 64 years	338,977	38,945	11.5
65 years and over	96,182	31,203	32.4

There was an increase in each age category other than the “18 to 64 years,” which decreased.¹¹ This trend has been recognized elsewhere. For example, an authoritative author noted that in 1900, only one in thirty was over sixty-five, but by 1970, one person in nine was over sixty-five, further estimating that by 2020, one person in five would be over sixty-five.¹² In 2017, the American Foundation for the Blind submitted a letter to the United States Senate Special Committee on Aging, stating: “According to 2015 estimates from the American Community Survey[fn], about 1 in 15 seniors aged 65 and up has ‘serious difficulty seeing, even when wearing glasses or contacts.’ For seniors aged 75 and up, the prevalence is almost 1 in 10.”¹³

The 2019 U.S. Census data also broke down statistics based on types of disabilities. See **Appendix A**. For example, of the “Total Civilian Noninstitutionalized Population,” it was estimated that 15,118 persons was “With a vision difficulty,” representing 2.7 percent. The following derivation reflects estimates for persons with a vision difficulty broken down by age category:

Population under 5 years	33,098	132	0.4%
Population 5 to 17 years	100,602	1,677	1.7%
Population 18 to 34 years	127,250	1,040	0.8%
Population 35 to 64 years	211,727	5,062	2.4%
Population 65 to 74 years	60,056	2,867	4.8%
Population 75 years and over	36,126	4,340	12.0%

In June 2020, Leslie Bechtel Van Orman, VOS Program Manager, provided a table to WDE with the number of patrons in each county, which was based on data from the previous year, also reporting that the overall number for 2020 was currently just under 700, which reflected an increase of 10 percent from the previous year. See **Appendix B**.¹⁴

¹¹ Source: U.S. Census Bureau at <https://data.census.gov/cedsci/table?g=0400000US56&d=ACS%201-Year%20Estimates%20Comparison%20Profiles&tid=ACSCPIY2018.CP02&hidePreview=true> (accessed 09/02/2020).

¹² C Eisdorfer, *Conceptual models of aging. The challenge of a new frontier*, Am Psychol. 1983 Feb; 38(2):197-202.

¹³ AFB Letter to the United States Senate Special Committee on Aging, July 31, 2017. Source: <https://www.afb.org/research-and-intiatives/past-initiatives/21st-century-agenda-aging-and-vision-loss/afb-letter-us> (accessed July 22, 2021).

¹⁴ The exact number was 627 “Patrons,” which is indicated to reflect “Talking Book Patrons.” Although the response to a Public Records Act for records related to the TBP did not reflect similar data for prior years that may allow for analysis of a more historic trend, the VOS noted the 10% increase.

In January 2021, VOS reported to WDE that the TBP had a current total of 634 patrons, of which 155 are legally blind, 375 have vision impairments, and 104 in a category designated as “other.”¹⁵ WDE also tracks information under the general heading: “Digital Inventory Assigned Equipment Redacted – By Year,” representing devices provided to patrons.¹⁶ See **Appendix C**. As reflected in the table and chart below, there has been significant increases in 2019 and 2020, while most of the 10-year period reflects a somewhat level assignment of equipment.

10-Year Trend – 2010 through 2020



WDE also tracks information under “Utah Regional Library -- Readership and Circulation Report.” This is derived from several documents for each fiscal year of a five-year period from 2016 through 2020. This information seems to be what the University of Utah is reporting as usage by patrons. See **Appendix D**. The number of individual readers reflects a slight increase over the period. The Wyoming State Library’s webpage related to the “Wyoming Talking Books Program” states: “It’s estimated that over 18,000 people in Wyoming are unable to read regular print material due to visual, physical, or reading disabilities.”¹⁷

The limited data strongly suggests an upward trend in the population of persons with disabilities in the State of Wyoming. The number of persons needing the TPB program is also increasing. More school-age children need the program. More older adults need the program. With overall increases in Wyoming’s population, need for this program is growing. As a point of emphasis, the population of persons potentially benefitting from the TBP is increasing and likely will continue to do so in the future. Such increases reinforce the importance of the TBP and the negative impact to such populations if the TBP was discontinued or limited.

¹⁵ Source: Email dated June 18, 2020, to Leslie Bechtel Van Orman, VOS Program Manager to WDE Chief of Staff, Dicky Shanor; Subject: Patron Numbers by County.

¹⁶ Per response to a Public Records request, this data was separated by year. The information was extrapolated to analyze historical trends from 2009.

¹⁷ Source: <https://library.wyo.gov/services/special-programs/talking-books/> (accessed 09/02/2020).

Wyoming children who are blind or visually impaired would no longer have access to children's stories and Braille or large print. Sighted parents would not be able to read along with their children. The TBP provides a printed format of Braille books facilitating reading with their children. Older Wyoming citizens who have lost their sight would no longer have books available in digital, large print or Braille format. These individuals rely heavily on the TBP to access reading material to provide opportunities for growth and enrichment through constructive leisure time activity. Wyoming citizens with visual impairment or other limitations under the TBP would also not have available reading material, such as magazines and newspapers, which serve an important role in being informed about current events. University of Wyoming, community college, and other Wyoming students would no longer be able to rely on the TBP to provide alternative formats for books that are required for their classes. This would deny Wyoming students equal access to education and impede their ability to be successful in employment.

Terminating the Talking Books Program would make Wyoming the only state without these vital resources and services. The State of Wyoming has the responsibility to protect the right of individuals with disabilities in all areas of their lives, including equal access to printed material.

TBP services are required to provide equal access to such citizens of this State. Since federal law requires equal access for persons with disabilities to all reading materials, Wyoming as the "Equality State" should continue to fund this wonderful and much needed program. The number of libraries with the needed specialized materials are limited and it would take another contractor months or years to attain the ability to take on the Wyoming patron caseload. The Utah library is a clear choice for providing this service in the most efficient and cost-effective manner.

Solution

When the WDE was pressed into tightening its belt due to a dim economic forecast by the Governor, it clearly faced difficult decisions. The WDE has recognized the importance of the TBP and the need for its continuing, prompting consideration of a number of options. One option, as touched upon above, was to utilize assistance from the State Library and county libraries across the state, as a means of continuing to carry out the State's legal obligations and provide necessary accessibility to state library resources. WDE considered a proposal limiting services provided by the Utah State Library, which possibly could be taken up by the State Library and other county libraries.¹⁸ However, this option has a number of different moving parts and there may be a potential that some services would not become available or restricted. The Utah State Library has the resources and proven track record to meet the needs of Wyoming. It is a clear choice for providing this service in the most efficient and cost-effective manner.

Another option under consideration is to fund services under the Montgomery Trust Fund (MTF). In this option, the funds held under the MTF would be used to purchase and distribute materials, devices or services to visually impaired Wyoming residents. Although the enabling statute (Wyo. Stat. Ann. § 25-6-101) was considered broad enough to allow this use, the WDE

¹⁸ Source: Email dated June 16, 2020, from Leslie Vanorman to Shelley Hamel, WDE Chief Academic Officer/cc: Margee Robertson; Trent Carroll; Subject: Re: Talking Books Reduction Proposal. See **Appendix E** for attachment of proposal.

rules were also considered more restrictive and would not allow it without a rule change.¹⁹ It is unknown whether this option continues to be explored. However, it may be a limited resource. Further exploration revealed that only some of the patrons would be eligible to receive funding from the MTF.²⁰

It is recognized that WDE in fact excluded approximately \$60,000 from its most recent proposed budget in 2021 for the biennium. However, the Wyoming Legislature restored the funding. Although additional funding options might be considered, none should be implemented if the effect potentially results in reduction or elimination of services. As WDE has been the implementing agency of the TBP, separation of the program to other agencies presents a concern of possible lack of coordination or gaps in services. If some of the services of the TBP is given to, for example, the State Library, funding to provide the same level of services altogether also should take place.

The WDE should also consider grants that may be available from national organizations for additional funding. For example, the Institute of Museum and Library Services offers grants, which have been provided to assist states in Talking Books Programs. The Wyoming Legislature may wish to consider funding studies by the WDE to explore similar and other funding options.

Most importantly, Wyoming decision makers should find a means to continue and not compromise the TBP after the many decades of service to the low vision and blind, physically handicapped, and learning impaired individuals of our State through action to preserve its funding into the future.

Conclusion

The State of Wyoming should develop a strategy to continue funding the TBP. The forecast of increased populations needing the services offered by the TBP suggest that the needs will also increase. Hundreds of Wyoming citizens eligible for the TBP would be affected annually. These citizens deserve this consideration and the continued equal opportunity for access to the devices, materials and services enabling people with visual impairments and other disabilities impacting ability to read, which accordingly will provide benefits to have a fuller life. In the words of the Virginia Markley, State Supervisor for the Deaf and Blind, circa 1930s: "Blindness is a restriction which prevents free participation in all activities of a community, whether recreational or occupational. The worth of the program for the adult blind and deaf has been demonstrated. The changed mental attitudes as well as the occupational therapy prove the value of this program." This vision should continue into the future.

Terminating the Talking Books Program would make Wyoming the only state without these vital resources and services. This is not a place where the Equality State should stand alone.

¹⁹ Source: Email dated December 23, 2020, from Mackenzie Williams, Senior Assistant Attorney General to Trent Carroll; Subject: Montgomery Trust Fund: Talking Books.

²⁰ It was determined that there were 634 total patrons as of January 2021. Of his number, 375 would qualify for MTF. Source: Email dated January 15, 2021, from Leslie Vanorman to Trent Carroll; Subject: MTF and Talking Books Question.