

January 25, 1960.

MR. JOSEPH E. CLAYTON  
*Assistant Commissioner of Education*  
Department of Education  
175 West State Street  
Trenton, New Jersey

## FORMAL OPINION 1960—No. 9

DEAR MR. CLAYTON :

You have asked for our legal opinion on the following questions :

1. May a board of trustees of a public library established under R.S. 40:54-1 et seq., or a county library commission established under R.S. 40:33-1 et seq., enter into contracts authorized by Chapter 108, P.L. 1956, or must such contracts be made by the governing bodies of the governmental units involved?
2. May such a board of trustees or county library commission make contracts for the free public library services specified in R.S. 40:33-1 et seq., and 40:54-1 et seq., or must such contracts be made by the governing bodies of the county and municipalities, respectively?

The contracts referred to in your request for an opinion are those which counties and municipalities are authorized to enter into for the exchange and reciprocal use of library services and facilities.

R.S. 40:54-29.1 states that "The governing body of any municipality may, by resolution, contract with any other municipality which maintains a free public library, for the furnishing of library service to the inhabitants of the first municipality. . . ." R.S. 40:54-29.2 states that "The governing body of such other municipality may, by resolution, enter into contract as provided in this act. . . ." The contracts referred to in R.S. 40:54-29.1 and R.S. 40:54-29.2 must be made between the governing bodies of the two municipalities.

R.S. 40:33-13.1 and R.S. 40:33-13.2 are similar to R.S. 40:54-29.1 and R.S. 40:54-29.2 except that the former statute refers to "The governing body of any municipality *which forms part of a county library system. . .*" and authorizes any such municipal governing body to contract with the "governing body" of any other municipality which maintains a free library system. (Emphasis added.)

R.S. 40:33-6 provides that "Upon the adoption of the provisions of this article the board of chosen freeholders [of the county] may contract with an existing library, or library board, within the county or the library commission of a county library . . . in another county. . . ." Thus a county which desires to use the existing facilities of another library must contract by its board of freeholders; the existing library, which is the other party to the contract, by its "library board," "library commission," etc., and not by the governing body of the governmental unit which operates the existing library.

Chapter 108, P.L. 1956, N.J.S.A. 40:9A-1 to 9A-4, reads in pertinent part as follows :

"The board of chosen freeholders of any county operating a library pursuant to chapter 33 of Title 40 of the Revised Statutes and any one or more municipalities, situate within such county, operating jointly or severally a library or libraries pursuant to chapter 54 of Title 40 of the Revised Statutes or any 2 or more such municipalities, situate within the same county, may contract or agree with each other to establish a federation of their libraries for the purpose of providing such forms of cooperative library service as the contracting parties shall agree upon."

R.S. 40:9A-1 thus provides that the contracts therein referred to shall be made by "board of chosen freeholders of any county" and "any one or more municipalities, situate with such county" or "2 or more such municipalities, situate within the same county." It is evident from the quoted statute that a county library may enter into a contract specified therein only by action of its board of chosen freeholders. However, R.S. 40:9A-1 does not expressly specify whether municipalities desiring to enter into the specified contracts may do so by their governing bodies or by the board of trustees of the municipal library.

Chapter 108, P.L. 1956 must be construed as being *in pari materia* with the other statutes governing cooperation between public libraries. When the other statutes refer to "municipalities" as contracting parties to agreements authorized therein, they clearly mean that the contracts are to be made by the governing bodies of the two municipalities. See R.S. 40:54-29.1, 29.2; R.S. 40:33-13.1, 13.2. It is therefore our opinion that the word "municipality" in R.S. 40:9A-1 also refers to the governing body of the municipality.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: MURRY BROCHIN  
*Deputy Attorney General*

April 18, 1960.

NED J. PARSEKIAN, *Acting Director*  
*Division of Motor Vehicles*  
State House  
Trenton, New Jersey

FORMAL OPINION 1960—No. 10

DEAR DIRECTOR PARSEKIAN :

You have requested our opinion as to the proper interpretation of the phrase "exhibitions of motor vehicle driving skill" as contained in and regulated by chapter 174, L. 1953 (N.J.S.A. 5:7-8 to 19). You have made specific reference to the problem of whether or not this term would embrace contests in the operation by children of undersized vehicles through various obstacle arrangements. The sport of driving small motor-powered "carts" on parking lots, race tracks and other off-street locations for the amusement of the children, their parents and other spectators has become popular in recent years.