

Legal Q&A: Reopening Libraries during the Pandemic

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Reopening—it's what's on everyone's mind.

By the time this issue goes to print, many libraries will already have started the slow process of reopening. What that looks like will depend on the library and its community. Some will choose to continue digital-only services for some time; some will start to schedule appointments; others will reopen with limited numbers of the public allowed in the building at any one time. There may be situations where a library can open without restriction. Whatever the case may be in your library, it's important to keep in mind who sets the rules as much as it is important to continue to deliver and expand services.

Who sets the rules for reopening libraries?

Library trustees have unique authority over the library. Unlike other municipal departments, which are subject to the rules and regulations promulgated by the Select Board, libraries are subject to their own governance structure under RSA chapter 202-A. This means library trustees must make decisions about rules for library access, employment, as well as services offered by libraries during the time of the pandemic.

The very nature of library operations means that staff members come into close personal contact with a variety of individuals every day, and there is often an exchange of physical objects, some of which may have been in the hands of someone who was contagious. Minimizing the risk of transmission to staff and the public is paramount.

As we plan for reopening, can we require patrons to wear masks or only recommend that they do so?

Library trustees under RSA 202-A:6 (management of public library property) have the authority to mandate that people entering a town building or library wear a face covering. They may also set limitations on the number of patrons allowed in the building at any one time. Libraries located in town buildings with other activity in that building should seek to work with town officials to design a unified set of rules.

If a library does decide to adopt a rule such as mandatory facemasks, it should have a supply available for those who arrive without a mask. A mandatory mask policy must be carefully crafted. While the Center for Disease Control recommends that everyone aged two and older wear a cloth face covering, it is important to recognize that some groups—such as young children or those with special needs—may be unable to wear a mask. Any rules created by the trustees should account for any individuals or groups who may not be able to abide by strict social distancing, mask-use, or other medical recommendations. Rules should be prominently posted so that the public is aware of them.

If a person refuses to wear a face mask or covering, that person could be denied access to a town building, including a library. Library trustees should meet with the appropriate municipal officials to work out a course of action if rules are not obeyed. The “action plan” should be clearly conveyed to staff, and periodic discussions should occur to ensure that the “action plan” is still viable in light of any new information as the response to the pandemic evolves.

What rules can we set for library employees?

Library trustees, under RSA 202-A:11, have the authority to set employment rules for the librarian and all employees of the library. These may include whether to require employees to wear masks or take other precautions to avoid becoming sick or spreading an illness. These rules should be flexible. Encouraging employees who may be sick to stay home—and thus prevent the risk of infection of the rest of the staff and members of the public—and adopting rules to allow employees the option to take their own precautions—such as wearing masks, etc.—even if those precautions are not mandated are encouraged. In addition, hand sanitizer or other hand-cleansing methods should be made available to staff and, if possible, the public.

As they move towards reopening, library trustees and librarians should regularly check the NHLTA website and the NHLA website, as well as NHMA's COVID-19 Resources Page: www.nhmunicipal.org/covid-19-resources. These sites have the most up-to-date and relevant information about everything from Emergency Orders to funding availability. □