

Legal Q&A: *Spring Cleaning*

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New library trustees will soon be welcomed into their roles, and it's the perfect time for some spring cleaning. First, help your newly-elected trustees become familiar with their responsibilities by walking them through the processes, procedures and relevant statutes. Second, libraries should ensure that the trustees are regularly reviewing policies — especially policies that they believe will be scrutinized more publicly than in previous years — in order to ensure that those policies meet legal and local standards.

Libraries need a strong book reconsideration policy and procedure in today's politicized climate. Typically, a library will have a specific form for book reconsiderations. (Those which do not should consider adopting one given the existing political climate.) This form must be coupled with a process for review of the specific material asked to be reviewed. Often, such a policy will have the library director review the material and a process whereby the challenger can appeal the library director's decision to the library trustees. This is an area that has been a hot topic in the library world and I would recommend checking with NHLTA and the State Librarian for further guidance on best practices.

Just as important are some of the more routine policies, such as how to regulate use of meeting rooms. Libraries should be aware that when the government allows groups to gather on government property, the government creates what is known in legalese as a "public forum." There is extensive case law on "public forums" and how those may be regulated, but, largely, it boils down to: the government may not regulate based on content. So, if the library, for example, allows the girl scouts to use a meeting room, it must also allow the boy scouts to use a meeting room.

Guns in the library are another flashpoint. RSA 159:6 allows anyone who is not lawfully prohibited from carrying a firearm to transport or carry a firearm in a vehicle or on or about one's person. There is no ability to prohibit someone from having a gun in a library — or anywhere else — in New Hampshire. (Please note, of course, that there is a difference between someone "carrying" a firearm and someone brandishing or otherwise threatening others with a firearm. Libraries — like other public institutions — should work with local law enforcement to train staff on appropriate responses in the case of someone brandishing or otherwise threatening others with a firearm.)

Homeless individuals utilizing the library for bathroom facilities, heat, cooling, and other services are another topic that can arise in the context of library operations. Municipalities are obligated to provide aid to those "who are poor and unable to support themselves," RSA 165:1, and have appointed local welfare officers to coordinate care pursuant to RSA chapter 165. As such, libraries should work with their municipal welfare officer to ensure a smooth delivery of services and coordinate municipal aid efforts that may help alleviate use of the library as a provider of services for the homeless.

There are, of course, a variety of off-the-wall incidents that occur in everyday life. It is unrealistic to think that every possibility can be considered and planned for in advance. Therefore, in addition to making sure newly-elected trustees become familiar with RSA chapter 202-A, it's a good idea for all library trustees to review these statutes as they help outline some of the activities libraries can regulate — and other relevant laws related to activities that they may see patrons engage in while at the library. ❏