

ILLINOIS STATE LIBRARY  
300 South Second Street  
Springfield, Illinois 62701-1796

**SYSTEM DIRECTOR'S  
MEMO #03-002**

TO: Directors, Illinois Library Systems

FROM: Mike Ragen, Chief Deputy Director  
Illinois State Library

DATE: July 26, 2002

RE: Non-Resident Service

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The attached is a response to inquiries regarding the application of the Administrative Rules for Non-Resident Services promulgated by the Illinois State Library. Either public library staff or system staff submitted the questions. The individuals who submitted inquiries are being sent these responses but their names are being withheld for purposes of confidentiality. The responses will also be posted on the Illinois State Library web site, which is listed below. Members of the Illinois State Library staff developed the responses to the questions. The responses will also be posted on the Illinois State Library web site. The responses will be posted based upon the date of issuance. Future questions will be responded to in a like manner. Please allow 25 days for a response.

We appreciate your input and concern about this issue.

Illinois State Library Web Page: <http://www.cyberdriveillinois.com/library/isl/isl.html>

cc: ISL Managers  
ISL Consultants

MR:jlh

**Illinois State Library: Response to questions regarding the Non-Resident Rules  
July 26, 2002**

- 1) **An inquiry was received on July 15, 2002 regarding the time schedule for public libraries to take official action on participation for non-resident service for the year 2003 and subsequent years.**

**Response:** The Administrative Rules for Non-Resident Service specifies that a library must take action annually whether or not to issue non-resident cards during the following 12 months (Section 3050.20-a). The only specific time frame for this action in 2002 is for regional library systems to have posted on their respective websites by September 1, 2002 of those libraries that are participating or non-participating in nonresident services (section 3050.30-a). Beginning in 2003 all regional library systems must post the participating and non-participating libraries on their websites by July 1. There is no specific time frame for a library to declare their participation. The only requirement for a library board is that the participation must be for a full twelve months. For example, if a library board chose to take that action on a January 1 to December 31 schedule, that is permitted. The regional library system would post the effective date of such library's policy. However, for ease of consistency and clarity, a regional library system could require all member libraries to take this action in a time frame that is conducive to the July 1<sup>st</sup> posting date.

- 2) **An inquiry was received on July 18, 2002 the calculation of the non-resident library service fee for a person who resides in government subsidized housing. Specifically, if the fee should be based upon the amount of rent of the apartment prior to the subsidization or should the non-resident fee be based upon the actual amount of rent paid by the non-resident.**

**Response:** The Administrative Rules for Non-Resident Service gives guidance to setting the non-resident fee for renters (23 Ill Admin Code Section 3050.60 b-2). The provision states: "The library shall either charge a minimum of 15 per cent of the monthly rent as the annual non-resident fee or devise its own formula. The local formula shall take into account the average local rent of the general community of the public library, property tax rate and the non-resident fee for homeowners." An important factor that affects the setting of this fee is the statutory law that governs non-resident cards. Both the Local Library Act and the Library District Act of 1991 stipulate that non-resident card fee shall be at least equal to the cost paid by residents of the library service area.

In the situation you describe, due to the rent subsidy, the non-resident pays \$124 per month in rent. Based upon the 15% minimum rate prescribed in the rules, the non-resident fee for this renter would be \$18. Such a fee would not meet the statutory requirement for equity to the amount that residents pay for library service. Since your library uses the tax bill method for determining non-resident fees, an alternative formula could be utilized. As noted above, an alternative formula to the 15% minimum factor is sanctioned by the Administrative rules.

An alternative formula for renters could be the use of the average rate paid by all non-residents and use the sum as the non-resident renter's fee. Another method could be to use the General Mathematical formula (23 Ill. Admin Code Section 3050.60 -a) of the Administrative Rules. This formula essentially requires a library to sum all the income from local property tax sources and divide that amount by the total population of the library service area (i.e., the city of Naperville) and then multiply that amount by the average number of individuals per household. This sum will provide the average cost per household for library service in the library service area which can be used to set a non-resident renter's fee. This latter formula could be weighed against the 15% formula to determine if the fee is approximate to what residents pay for services. Whatever formula the library uses, equating the renter's fee with the rate paid by residents should be paramount so as to meet the statutory requirement of resident taxpayer equity.

- 3) **A response to an inquiry received on 18, 2002 questioning if a library board must adopt a resolution or ordinance to enact non-resident participation and the policies that effect such participation.**

**Response:** Section 3050.20-a of the Non-Resident Service rules specifically states "The public library board of trustees shall annually take action to decide whether to issue non-resident library cards during the ensuing 12 months". The intent of the State Library for the definition of the term "action" follows the traditional legal/regulatory use of the term. Black's Law Dictionary defines the term "action" as "a civil or criminal judicial proceeding". "Proceeding" is defined as "the business conducted by a court or other official body". Therefore, Section 3050.20-a calls for the library board of trustees to take the official action necessary to implement the non-resident policy. This action is embodied in the legal vehicle that the board uses to implement policies, i.e., a resolution or an ordinance.