



Frequently Asked Questions by Public Libraries During COVID-19

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Question: Under the new Executive Order 2020-59, can libraries provide curbside service?

No. Based on the strict reading of Executive Order 2020-59 (“EO 2020-59”), libraries cannot provide curbside service. In fact, we do not believe EO 2020-59 changed or lifted any of the current service restrictions for Public Libraries. So, unless the Governor’s Office releases a clarification or revision, we recommend that you remain closed to the public and not provide curbside service during the term of the Executive Order 2020-59.

Question: We heard that we had to lay off library employees because public funds cannot be spent paying employees during a shut down?

We do not believe paying employees during an Executive Order shut down is an improper expenditure of Library funds. There is a public and library benefit to retaining trained and valuable employees. Those employees may not return to work after the lay off and that would require the library to expend additional funds searching for and training new staff. We recommend seeking counsel of an employment attorney before making any decisions regarding a reduction or layoff of staff.

Question: What does the Executive Order require if we have staff that come to the library even though it is closed to the public?

For those libraries that have essential employees working in the library, the following is required by EO 2020-59:

- Developing a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration. Such plan must be available at company headquarters or the worksite. Foster Swift can assist libraries in preparing such plans.

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- Restricting the number of workers present on premises to no more than is strictly necessary to perform the in-person work permitted under this order.
- Promoting remote work to the fullest extent possible.
- Keeping workers and patrons who are on premises at least six (6) feet from one another to the maximum extent possible.
- Increasing standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
- Adopting policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.
- Any other social distancing practices and mitigation measures recommended by the Centers for Disease Control.
- All businesses and operations whose workers perform in-person work must, at a minimum, provide non-medical grade face coverings to their workers.

Question: We have to hold our budget hearing before the beginning of the new fiscal year on July 1. Can we hold the hearing electronically?

This is a tricky question and it depends on the timing of the budget hearing. All hearings can be held electronically until May 12, 2020 according to Executive Order 2020-15. But that order expires on May 12, 2020. It is unclear whether that will be extended (even though the "Stay Home" order has been extended to May 15, 2020). So, if the hearing is held before May 12, 2020, it can be held electronically. The library should follow the requirements for notices for meetings that are held electronically required by Executive Order 2020-15 (See <https://www.fosterswift.com/communications-executive-order-oma-covid-19.html> for details on that executive order). If the meeting is after May 12, 2020 we recommend contacting your attorney to discuss the proper procedure. The library may consider waiting until after May 15, 2020 to determine whether the "Stay Home" order is going to be extended and whether an in-person hearing is an option.

Question: I just received a FOIA request. Do I have to respond while the library is closed?

It will depend on the nature of the request. If it is a simple request and the library has electronic records that it can access remotely, the library will likely be required to respond. However, the Governor in Executive Order 2020-38 extended certain deadlines and provide for additional deferment or extensions until June 6 for more complex FOIA requests. Whether those deadlines can be further extended or deferred will depend upon several factors, including whether "in person" work is required to comply with the request. Foster Swift has provided a more detailed article on the applicability of EO 2020-38: <https://www.fosterswift.com/communications-whitmer-temporarily-suspends-foia-deadlines.html>

Question: We are hoping that the library can resume service soon. Should we be developing a plan for reopening and what should that include?



Yes, there is a light at the end of this tunnel! Therefore, we recommend that the library start planning for a reopening. Some of the procedures and policies may be required by Executive Order. For example, the Governor is requiring in person employees and people in enclosed spaces wear masks currently and may extend that requirement. However, other aspects may be left to the library to decide. Issues that libraries should consider:

- Can we abide by social distancing rules in the library? This will include whether tables and workstations must be moved.
- Are we going to open slowly, such as allowing only curbside service at first?
- Are we going to institute additional cleaning procedures? For example, will the library staff be required to clean computers between uses?
- Will masks be required?
- Will we limit the number of patrons at a time?
- Are we going to cancel programs or have remote programs?
- How will the library address returned items?
- What about patrons who come to the library and appear ill?

We understand that these are uncertain and unprecedented times. Foster Swift has a COVID-19 Task Force as well as library lawyers to help navigate the library through this pandemic.

For further questions regarding this communication, please contact: Anne Seuryneck...616.726.2240...aseuryneck@fosterswift.com