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# MEMORANDUM

**To:** Kate Niehoff, Director of Consulting & Continuing Education  
Reaching Across Illinois Library System (RAILS)

**CC:** Monica Harris, Executive Director  
Joseph Filapek, Associate Executive Director

**From:** Julie A. Tappendorf  
Erin M. Monforti

**Subject:** Calculation of Fee for Non-Resident Cards for Students

**Date:** February 20, 2025

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You asked us to provide you with an updated opinion as to the calculation of the fee for non-resident cards for students. Since we provided our previous guidance in 2015, there have been adjustments in the laws and regulations concerning non-resident cards for minors and students, with recent legislative efforts targeted toward affordability and access.

The appropriate calculation depends on how a student obtains a non-resident library card. There is one method for calculating a non-resident fee for students who apply for non-resident cards on an individual basis (discussed in subsection B) and another method if the student is covered by an intergovernmental agreement between the library and school district (discussed in subsection C).

## **A. Application of Non-Resident Fees for Minors.**

In May 2022, the Illinois General Assembly enacted Public Act 102-0843, which amended the Local Library Act and Public Library District Act of 1991 to provide libraries authority to waive non-resident fees for individuals under the age of 18. *See* 75 ILCS 5/4-7(12); 75 ILCS 16/30-55.60. While libraries may now waive non-resident fees for minors, they are not obligated to do so—rather, it is a choice left to the discretion of each library. It is important to note that a waiver of non-resident fees for minors could not be applied specially to exempt payment of fees for a particular student or school, but would apply to all non-residents under the age of 18.

## **B. Obtaining a Non-Resident Library Card on an Individual Basis.**

Under Illinois law, both public libraries and library districts are authorized to provide non-residents (those who live outside of the public library service area or library district) with library cards. Subject to a waiver of non-resident fees for minors (as discussed in subsection A), or eligibility for an income-based waiver (discussed in subsection D), libraries are required to charge a nonresident fee “at least equal to the cost paid by residents of the city, incorporated town, village or township” (for public libraries) and “at least equal to the cost paid by residents of the district” (for library districts). *See* 75 ILCS 5/4-7(12); 75 ILCS 16/30-55.60. Both statutes provide that the cost is to be determined according to the formula established by the Illinois State Library. Those rules are contained in the Illinois Administrative Code (“JCAR rules”)

Pursuant to the JCAR rules, there are three options for a library to use to determine the fee that should be imposed for non-resident library cards issued on an individual basis:

- (1) General Formula Method: a general mathematical formula that is based on the cost of service per capita (library tax income divided by local population, multiplied by average number of people per household);
- (2) Tax Bill Method:
  - a. for non-resident taxpayers, application of the library’s local tax rate to the non-resident’s tax bill, and
  - b. for renters, a charge of 15% of the monthly rent or a charge determined based on a locally-devised formula that accounts for average local rent; or
- (3) System Area Method: adoption of an average non-resident fee for the system area. It should be noted that this option is limited to library service areas with a relatively large share of non-residential property, and is subject to approval by the Illinois State Library.

Whatever method is used to determine the fee, that fee must be equitable and proportionate to the fee paid by residents. Thus, if a student applies for a non-resident library card on an individual basis, he or she would be subject to the fee calculated in accordance with one of these three formulas. Of course, if a library has waived non-resident fees for minors, or a student qualifies for a waiver of the non-resident fee, they are not subject to fees otherwise provided for in the JCAR rules.

### **C. IGA with School District.**

There is an alternative to each student applying for a non-resident library card on an individual basis. A school district and library can enter into an intergovernmental agreement (“IGA”) to provide non-resident library services to the school district. The IGA must establish a non-resident fee for the cards that is based on “the principle of equity of costs.” *See* 75 ILCS 5/4-7(8); 75 ILCS 16/30-55.40. Although that phrase is not defined in state statute or the JCAR rules, it has been interpreted to mean that the non-resident fee should be calculated such that the non-residents that will be served by the library are paying a fee equivalent to what residents pay through their property taxes.

It is a little more difficult to determine how much a school district would pay collectively through the IGA to serve its students. Some of those students may actually be residents of that library service area or district, and should be excluded in calculating an appropriate IGA fee as they are already paying taxes and receive library service. So, in calculating an appropriate fee, the school district and library might first determine approximately how many students are non-residents, and then apply a similar method of calculating the fee for those non-resident students as is required to establish an individual non-resident fee as discussed under subsection B of this memorandum.

Based on the numerous provisions in the JCAR rules requiring non-resident fees to be set at a cost that is “equitable” to the taxes imposed on residents, it would probably be unreasonable to impose only a token payment on non-resident cards for students through the IGA—the issue is one of fairness to the residents who pay taxes for these services.

On the other hand, there does not appear to be any prohibition on the parties agreeing to other forms of compensation for the non-resident services. In fact, the JCAR rules expressly exempt IGAs from the formal calculation requirements for nonresident fees—instead, the freedom to contract for adequate compensation for library services is reserved to libraries and schools with IGAs. For example, a school district might agree to non-monetary consideration for the non-resident library services such as use of school property or provision of other services that the library might otherwise have to pay for. The IGA should spell out, however, what type of consideration the school is paying to the library in exchange for the non-resident library services, and whatever form that consideration takes, it should be equitable to what residents pay in taxes.

In sum, this is not a clear-cut issue either in the statute or in the JCAR rules. The one thing that does seem clear, however, is that the JCAR rules adopted by the state are intended to ensure that non-residents, when applicable, pay their ‘fair share’ to the library in order to receive services on a level similar to residents who are subject to library taxes.

#### **D. “Cards for Kids” Household Income Exception.**

As indicated above, the library statutes and rules were recently amended to provide libraries the authority to waive non-resident fees for minors altogether. Even if a library does not choose to waive fees for all non-residents under the age of 18, students may otherwise qualify for a free non-resident card based on household income.

In 2021, the JCAR rules were amended to provide that libraries are prohibited from charging non-resident card fees for students whose (1) principal residence is not within a library service area and (2) whose household income makes them eligible for free or reduced-price meals at school.

In order to qualify for a free non-resident student card under these regulations, a student must present a library with documentation from their school showing their eligibility for free or reduced-price meals. Libraries may also choose to apply the waiver for all local students from

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low-income households if their school or school district operates under the “Community Eligible Provision” of the U.S. Department of Agriculture’s National School Lunch and School Breakfast Programs. For homeschooled students, libraries are required to create a certification document that allows families to indicate (1) current household size and (2) annualized household income in order to determine whether the students would be eligible for free or reduced-price meals were they attending a public school.