


# New England **First Amendment** Coalition

*Protecting First Amendment Freedoms and the Public's Right to Know*

111 Milk Street, Westborough MA 01581 | 508.983.6006 | nefac.org 

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

EXECUTIVE DIRECTOR  
**Justin Silverman, Esq.**

EXECUTIVE COMMITTEE  
**Gregory V. Sullivan, Esq.**  
*President*  
Malloy & Sullivan  
**Maggie Mulvihill**  
*First Vice President*  
Boston University  
**Christopher Hamblett**  
*Second Vice President*  
Foundation for West Africa  
**Shirley Leung**  
The Boston Globe  
**Emily Sweeney**  
The Boston Globe

DIRECTORS  
**Jonathan M. Albano, Esq.**  
Morgan, Lewis & Bockius LLP  
**Dan Barrett**  
ACLU of Connecticut  
**Robert A. Bertsche, Esq.**  
Klaris Law  
**Peter Caruso, Sr., Esq.**  
Caruso & Caruso, LLP  
**Edward Fitzpatrick**  
The Boston Globe  
**Richard Gagliuso, Esq.**  
Bernstein Shur  
**Jenifer McKim**  
GBH News Center  
for Investigative Reporting  
**Judy Meyer**  
Maine Trust for Local News  
**Penelope Overton**  
Portland Press Herald  
**Sigmund D. Schutz, Esq.**  
Preti Flaherty  
**Mike Stanton**  
University of Connecticut  
**Harrison Stark**  
ACLU of Vermont

*Affiliations appear for identification purposes only.*

Executive Office of the Trial Court  
One Pemberton Square  
Boston, MA 02108  
Attn: Hon. Jeffrey A. Locke

**SENT VIA EMAIL TO EXECOF@JUD.STATE.MA.US**

October 9, 2024

Dear Hon. Jeffrey A. Locke,

I'm writing on behalf of the New England First Amendment Coalition. NEFAC is a non-profit organization that advocates for public access to government, including the judicial system and its records. Our Board of Directors includes many leading journalists and media attorneys in the state.<sup>1</sup>

We previously wrote to you about the lack of criminal case information provided publicly online despite a court rule requiring its disclosure.<sup>2</sup> Your staff responded quickly to our concerns and addressed the situation promptly. Thank you for making that issue a priority. We're writing again with another concern we hope you'll address: the lack of public terminal access at district courthouses in the state.

According to Rule 2(f) of the Trial Court Rules on Public Access to Court Records:

Trial courts are to "provide the public with *a computer kiosk or terminal* for accessing electronic court records. . . . The Clerk may set *reasonable restrictions on the amount of time* that any one person may use a computer kiosk, the number of searches, or the number of documents viewed, *to ensure that the computer kiosk is not monopolized* or misused."<sup>3</sup> (emphasis added)

Due to a combination of out-of-service kiosks and individuals using kiosks for an unreasonable amount of time, public access can frequently be denied. This is a major concern given that many court records, such as documents in criminal cases, cannot be thoroughly researched remotely but must instead be searched for through these kiosks. We believe this situation can be significantly improved with additional policies and guidance from your office.

We conducted a survey of all district courthouses last July and found that at least four of them lacked a single operable kiosk.<sup>4</sup> Based on our communication with your office, there were another seven courthouses reporting inoperable kiosks around this time. It's our understanding that these terminals have been serviced and are now operable.<sup>5</sup>

Still, Rule 2(f) requires only one kiosk or terminal at each courthouse. Fifty-six of the 61 district courthouses (93 percent) have just a single terminal. Even when operable these kiosks are frequently used by researchers and other individuals for many hours at a time regardless of whether someone is waiting to use that terminal. As a result, members of the public are deprived of their right to access court documents. When a kiosk is out of service — as 11 previously were — the same consequence: no public access.

We are asking your office to consider addressing this issue in two ways:

- Provide at least two terminals in each courthouse. Public access to court records should not be dependent on the reliability of a single kiosk. A second terminal would be a much-needed contingency plan and would also help alleviate long waiting times when the first kiosk is in use.
- Impose a time limit of one hour for the use of any kiosk if there are individuals waiting to use the terminal. Rule 2(f) allows clerks to set reasonable restrictions to “ensure that the computer kiosk is not monopolized.” Such discretion, however, is usually not exercised. A time limit should instead be required.

Another option would be to grant all members of the public the same level of remote access that is currently provided to attorneys. In lieu of that policy change, however, we believe the two actions above should be taken. We also make these recommendations under the assumption that each kiosk is working adequately. Terminals that are deemed operable can at times be extremely slow and buggy. In Worcester District Court, for example, there are four public terminals but it’s common for two or three of them to be so slow they are unusable. A journalist reported to us that terminals there frequently take more than five minutes to simply load the MassCourts.org website. Ultimately it doesn’t matter how many kiosks are available at each courthouse if they do not operate at a reasonable speed.

Because of the limitations of MassCourts.org and restricted online access to court records, these public terminals are often the only meaningful way to research cases. Journalists can be stymied in their reporting because a kiosk is inoperable or being occupied for several hours at a time. Stories cannot be reported quickly and valuable time is wasted traveling to individual courthouses where kiosks are unavailable. This is not the situation envisioned when Rule 2(f) was written, but it is the unfortunate reality we hope you’ll consider addressing.

Thank you for your time and consideration.



Justin Silverman  
*Executive Director*

---

**1** More information about the New England First Amendment Coalition can be found at <https://nefac.org>.

**2** *NEFAC Calls for Mass. Courts to Follow Rules on Remote Access to Criminal Case Information*, New England First Amendment Coalition, Dec. 21, 2024, <https://www.nefac.org/news/nefac-calls-for-mass-courts-to-follow-rules-on-remote-access-to-criminal-case-information/> (last visited Oct. 9, 2024).

**3** Trial Court Rule XIV Uniform Rules on Public Access to Court Records, <https://www.mass.gov/doc/trial-court-rule-xiv-uniform-rules-on-public-access-to-court-records/download> (last visited Oct. 9, 2024).

**4** A map of NEFAC’s survey results from July can be viewed at <https://arcg.is/ebGLm>.

**5** August 15, 2024, letter to NEFAC from Court Administrator Thomas G. Ambrosino: “We had previous reports of non-working terminals in Plymouth, Hingham, Taunton, Wrentham, East Brookfield, Fitchburg, Chicopee, Eastern Hampshire, and Southern Berkshire District Courts, but the terminals in those courts have been restored to working order.”