

## Confidentiality and Privacy Policy

### Policy Statement

To protect customers' rights of free speech, free thought and free association, the Library will maintain confidentiality of Library customer records to the fullest extent permitted by law. The Board of Trustees endorses the American Library Associations' *Library Bill of Rights* which states, "All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all Library use data, including personally identifiable information." The Board of Trustees also endorses the New Jersey Library Association *Statement on Library Confidentiality and Access to Children's Library Records*. All persons using the Library's website, downloading the Library's mobile application(s), visiting either Library branch, or donating to the Library, will be subject to the provisions of this policy, and agree by such use that the Library may use their email and postal address to communicate with them about Library programs, services, fundraising efforts, and more.

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### Regulations

1. Customers and other users (collectively, "customers" or "users") have the right to be informed about the policies governing the collection and retention of personally identifiable information about persons who use the Library and its services, and about why that information is necessary for the provision of Library services. See also *Records Retention* policy [MGT-2].
2. Customer registration information is exempt from disclosure by the New Jersey Open Public Records Act<sup>1</sup>.
3. The library records regarding customers and other uses of the Library are confidential, and the Library endeavors to protect each user's right to privacy with respect to information sought or received and materials consulted or borrowed. For people to make effective use of library resources, they must feel unconstrained by the possibility that others may become aware of the materials they use and the questions they ask. Awareness of such a possibility inhibits free use of the library and is contrary to the American Library Association's *Library Bill of Rights and Freedom to Read Statement* and New Jersey law.
4. Legal Standards:
  - A. New Jersey law defines a "library record" as any document or record, however maintained, the primary purpose of which is to provide for control of the circulation or other public use of library materials.<sup>2</sup> The

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<sup>1</sup> N.J.S.A. §18A:73-43:2.

<sup>2</sup> N.J.S.A. §18A:73-43.1.

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law further states that library records, which contain the names or other personally identifying information regarding users of libraries are confidential and may be disclosed only in the following circumstances:

- i. the records are necessary for the proper operation of the library;
- ii. the user requests or authorizes that the information be disclosed; or
- iii. the disclosure is required pursuant to a subpoena issued by a court or court order.<sup>3</sup>

B. All Library employees are responsible for strictly adhering to this policy. Anyone who discloses confidential information to an individual, except as detailed in the policy, shall be subject to be serious disciplinary action, up to and including termination from employment.

5. The Library will avoid collecting and/or retaining information not needed for the fulfillment of its mission and will engage in practices to prevent library records from being open to public view.

6. The Library may collect and retain the following types of information about persons who make use the services and resources the Library provides:

A. Library Circulation System

- i. Information is collected in order to issue Library Cards and to maintain an accurate record of items borrowed, to provide a means of notification and contact and to record outstanding fines and fees.
- ii. Information collected may include: name, address, phone number, e-mail address, date of birth, items currently checked out, fines owed, fines paid or waived, current holds, requests and informational notes related to Library card account matters, and interlibrary loan transactions but only for the current and most recent prior transaction.
- iii. The Library does not maintain a history of the items checked out by a customer, unless the customer specifically requests that the Library maintain such history by opting-in. Customers can opt-out of this service at any time and their history will be deleted.
- iv. Library cards contain the following information: barcode number, PIN, and monetary balance.

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<sup>3</sup> N.J.S.A. §18A:73-43.2.

- v. For minor Library card applicants, name(s) of parent or legal guardian, and other authorized users

B. Use of the Library's Website and Mobile Applications

- i. Information is collected automatically, including customers' user names and passwords, Internet Protocol (IP) address, location, kind of web browser or electronic device used to access the website or application(s).
- ii. Except for user names and passwords, which are necessary to allow customers to log in and access portions of the website and to use the mobile applications, the Library does not maintain information relative to individual customers.
- iii. The Library does maintain anonymous aggregate information from its website and apps, such as locations of users, the click-through rate (the ratio of users who click on a specific link to the number of total users who view that page), time spent on each page, and whether users left or continued on the site after visiting a particular page. All information is collected and analyzed using Google Analytics.

C. Internet Access Using Library-Based Computers

- i. Information is collected to allow automated management of the Library's public computer resources.
- ii. Information collected includes: library card number, age for individuals under the age of 18, computer time used for the day, allowed computer time and monetary balance. Information is deleted at the end of each session relative to all individual customers, but the Library does maintain anonymous aggregate information about the total computer time used each day.

D. Web-based Events Application

- i. Information is collected to manage Library program and event registration. It includes name, phone number, e-mail address, grade, age, and library card number. After each event or program is complete, information is deleted relative to all individual customers, but the Library does maintain anonymous aggregate information about the total number, age, and grade of participants.

E. Web-based summer reading application

- i. Information is collected to manage summer reading logs, including name, phone number, e-mail address, grade, library card number, PIN and total books read. Information is deleted at the end of the summer relative to all individual customers, but the Library does maintain anonymous aggregate information about the total number and grade of participants, and the number of books read.

#### F. Surveillance Recordings

- i. The library records daily activities within the Library, including users in the Library, in order to increase security. Security camera footage is maintained for no longer than seven (7) calendar days, unless the Library determines that some portion of recorded footage should be maintained for a specific purpose and a longer period of time, which generally is tied to an internal investigation or an investigation by law enforcement or another governmental entity.
- ii. Disclosure of surveillance recordings is limited to the circumstances and requirements discussed below in Section 7 E of this policy.

#### G. Meeting room and Library facility use applications

- i. The Library requires an application for the use of its meeting rooms (see *Meeting Room Use* policy [MGT-10]) in order to verify eligibility, designate a responsible party and to provide a point of contact. Information collected includes name, organization, phone number, email address, and library card number.
- ii. Information specific to any individual is deleted following the conclusion of the approved use, but the Library does maintain a listing of organizations approved to use a meeting room, and any specific details relative to future requests by that organization to use a meeting room, as well as anonymous aggregate information about the programs and purposes for which rooms were used.

#### H. Credit card transactions

- i. Credit card transactions are handled by a third party vendor who is in compliance with Payment Card Industry Data Security Standard (PCI-DSS).

### 7. Responding to Requests for Library Records.

#### A. Requests for Information from Individuals

- i. No staff member or volunteer (collectively, “staff member”) may disclose any Personal Identifying Information concerning any individual user to any other individual, except in accordance with the law and this policy. Personal Identifying Information includes the user’s name, address, telephone number (home and cell), email address, identification numbers (e.g., driver’s license number, passport number), and any other information that could be used to identify an individual user, including photographic, video and digital image, likeness and voice, as well as information about:
  - a. Whether the individual currently holds, or previously held, a Library card;

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- b. Materials borrowed currently or in the past;
  - c. Questions presented to Library staff;
  - d. Resources consulted, including print, non-print and electronic;
  - e. The date, time, frequency, duration, and nature of use of Library computers, including Internet access, and database searches Library staff members or volunteers conducted for the user;
  - f. The date, time, frequency, duration and nature of the user's visits to the Library, whether physically, or remotely, through the Library's website or a mobile app;
  - g. Any other information a user provided to the Library or included in the user's borrower record or any other library record.
- ii. Only a Library cardholder shall have access to information about his/her library record, but all cardholders may request or agree to have their card linked to others in their household.
  - iii. Minor children are entitled to confidentiality. Unless the family has a linked Library card, when a parent asks for information about their child's record, the information will be given only if the child is present and consents to the request. If the child is not present, a list of materials checked out or overdue may be mailed or emailed to the child, at the request of the parent/guardian. All other information will be disclosed only to the cardholder.
- B. Requests for Information from Local, County, or State Governmental Agencies
- i. Oral Requests – If a representative of a local, county or state agency, including police departments and other law enforcement agencies, makes an oral request to any staff member to make any library record(s) available for examination, or to furnish any confidential user information, the staff member receiving the request shall not produce any records or release any information. The receiving employee or volunteer shall:
    - a. take the requestor's name, address, telephone number and other contact information, and
    - b. immediately notify the Director, Assistant Director or person in charge of the Library at that moment about the request.

The Director, Assistant Director or person in charge of the Library at that moment shall explain to the representative making the request that, in accordance with New Jersey law and Library policy,

the Library cannot release information about any potential Library user except if authorized by that individual, or if disclosure is required pursuant to a subpoena issued by a court or a court order. Immediately thereafter, the Assistant Director or person in charge of the Library shall notify the Director and provide the information about who made the request and what was requested.

- ii. Written Requests – Written requests, *except for* subpoenas issued by a court or court orders, including warrants, from local, county or state agencies, including police departments and other law enforcement agencies, seeking information or records from the Library, should be handled in the same manner as oral requests.
  - a. If the written request is presented in person, the staff member should simply accept the request and state that someone will respond, and then immediately transmit the written request to the Director and Assistant Director.
  - b. The Director or Assistant Director shall respond to the representative making the written request and explain that in accordance with New Jersey law and Library policy, the Library cannot release information about any potential Library user, except if authorized by that individual or if disclosure is required pursuant to a subpoena issued by a court or a court order.
- iii. Court Orders - If a representative of a local, county or state agency, including police departments and other law enforcement agencies, tries to present any Library staff member with a court order or court issued subpoena compelling the Library to make any library records available for examination, or to furnish any confidential user information, the staff member shall decline to accept the document and shall state that he/she is not authorized to receive any legal documents on behalf of the Library, but will get someone who can. The staff member shall immediately notify the Director or Assistant Director or, if neither is available, the person in charge of the Library at that moment (the “authorized designee”), who shall be authorized to accept the document(s)/request.
  - a. The individual accepting the court order, subpoena or warrant, shall review it and if not the Director, shall immediately forward the request to the Director.
  - b. If the court order requires immediate compliance, the Director, Assistant Director, or authorized designee in consultation with the Director or Assistant Director, if possible, shall comply with the request or explain to the representative why the Library cannot immediately comply. For example, if the Library needs to do a search for specific

documents, or to download and identify the requested portion of a security video, an immediate response may not be feasible.

- c. If the court order is a warrant authorizing the representative(s) immediately to search through any part of the Library and to confiscate records or equipment, the authorized designee receiving the warrant, in consultation with the Director or Assistant Director, if possible, shall comply with the request and allow the representative(s) to conduct the search. The Director, Assistant Director, or authorized designee shall remain with the representative(s) at all times while the search is being conducted, shall make reasonable efforts to ensure the representative(s) search through and remove no more than what the warrant authorizes, and make a record of anything the representative(s) remove from the Library pursuant to the warrant.
- d. Upon receipt from a local, county or state agency, including police departments and other law enforcement agencies, of a court order or court issued subpoena compelling the Library to make any library records available for examination, or to furnish any confidential user information, the Director or Assistant Director, shall immediately forward the court ordered request to the Library's attorney and request guidance, including the extent to which the Library is required to comply.
- e. Based on the advice of the Library's attorney, the Library shall produce all required library records, information and materials, which the Library is compelled to produce, and in accordance with the timing set forth in the order. The Library will maintain a detailed record, and where appropriate, a copy, of all library records, information and materials produced in response to a valid court order or court issued subpoena or warrant.
- f. If the a court order or court issued subpoena or warrant required immediate an immediate response, then immediately after complying, the Director or Assistant Director, shall forward the court ordered request to the Library's attorney and request guidance on whether the Library acted properly in complying and what further actions, if any, may be required. Further actions may include but shall not be limited to the Library's attorney contacting the requesting party to discuss ways to comply with or to narrow or clarify the request, or filing a petition in

an appropriate court asking for an order narrowing the scope of the subpoena or quashing the subpoena, or declaring that the warrant was improperly issued or executed and requesting that the requesting party be prohibited from, or limited in, using the confiscated records, information and/or materials.

- iv. The Library will release only the records, information and/or materials specifically listed or identified in any subpoena or court order or court issued subpoena or warrant.

#### C. Requests for Information from Federal Governmental Agencies

- i. In addition to the New Jersey statutes, the federal USA Patriot Act of 2001 and the USA Freedom Act of 2015, which amended and extended the Patriot Act, broaden the powers of federal law enforcement agencies investigating cases involving foreign intelligence and international terrorism. Under these laws, disclosure may be required pursuant to a search warrant or court order issued by the Foreign Intelligence Surveillance Act (FISA) Court or pursuant to a National Security Letter (NSL) issued by the FBI or other federal law enforcement/investigatory agencies.
  - a. Any person or institution served with either a FISA subpoena or search warrant or NSL, may not disclose that the Library received the document, or what records were requested and/or produced pursuant to the FISA subpoena or search warrant or NSL.
- ii. If anyone attempts to present a FISA subpoena or search warrant or NSL from the FBI or another government agency to a staff member other than the Director, Assistant Director, or in their absence, the authorized designee, the staff member shall decline to accept the document and shall state that he/she is not authorized to receive any legal documents on behalf of the Library, but will get someone who can. The staff member shall immediately notify the Director, Assistant Director, or in their absence, the authorized designee, who shall be authorized to accept the document(s)/request. Only the Director, Assistant Director, or in their absence, the authorized designee, is authorized to receive a FISA subpoena or search warrant or NSL, so any other employee or volunteer receiving a FISA subpoena or search warrant or NSL immediately shall notify the Director, Assistant Director, or authorized designee, who shall take responsibility for the matter immediately.
  - a. The staff member initially receiving the FISA subpoena or search warrant or NSL, shall not disclose, and is legally forbidden from disclosing, either the fact that the Library



- received the FISA subpoena or search warrant or NSL, or the content of such document with anyone, other than the Director, Assistant Director, or in their absence, the authorized designee, and with the Library's legal counsel, or as directed by the Library's legal counsel.
- b. If necessary, the Director, Assistant Director, or in their absence, the authorized designee, may inform the representative of the federal agency, who delivered the court order or NSL, that the Library must consult with legal counsel before responding, but should provide no further information.
  - c. If the FISA subpoena or search warrant or NSL authorizes the federal government representative(s) immediately to search through any part of the Library and to confiscate records or equipment, the Director, Assistant Director, or in their absence, the authorized designee in consultation with the Director or Assistant Director, if possible, shall comply with the request and allow the representative(s) to conduct the search. The Director, Assistant Director, or in their absence, the authorized designee, shall remain with the representative(s) at all times while the search is being conducted, shall make reasonable efforts to ensure the representative(s) search through and remove no more than what the FISA subpoena or search warrant or NSL authorizes, and make a record of anything the representative(s) remove from the Library pursuant to the FISA subpoena or search warrant or NSL.
- iii. Upon receipt of notification of a FISA subpoena or search warrant or NSL, the authorized designee immediately shall notify the Director or Assistant Director, and transfer the FISA subpoena or search warrant or NSL to that individual. Once the authorized designee transfers the FISA subpoena or search warrant or NSL to the Director or Assistant Director, the authorized designee shall not disclose, and is legally forbidden from disclosing, either the fact that the Library received the order or NSL, or the content of the order or NSL with anyone, other than the Director, Assistant Director, and the Library's legal counsel, or as directed by the Library's legal counsel. If necessary, the authorized designee may inform the representative of the federal agency, who delivered the court order or NSL, that the Library must consult with legal counsel before responding, but should provide no further information.
  - iv. The Director or Assistant Director shall consult with the Library's legal counsel to determine what response the Library should take.

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If the Library intends to comply with the request, the Director or Assistant Director, shall determine who at the Library is able to conform to the request stated in the FISA subpoena or search warrant or NSL.

- v. All Library employees and volunteers who have knowledge that a FISA subpoena or search warrant or NSL has been served upon the Library may consult with the Library's legal counsel, but are prohibited from disclosing information about it to anyone else, including the person who is the subject of the investigation, other Library staff, members of the Library Board of Trustees, local government officials, family or friends, except as directed by the Library's legal counsel.

### D. Confidentiality of the process

- i. Nondisclosure requirements always apply to NSLs and to court-issued subpoenas and search warrants issued under the USA Freedom Act, but may also apply to other types of court orders, subpoenas and warrants. In this case, the same confidentiality procedures apply.
- ii. Any questions or problems not covered in this policy should be immediately referred to the Director or Assistant Director.

### E. Requests for Video Footage from Library Security Cameras

- i. The video recordings on Library security cameras may be considered a confidential "library record" to the extent that the primary purpose of the footage is to provide for control of the circulation or other public use of Library materials. Therefore, access to the cameras, and the authority to download and share footage from the security cameras, is strictly limited and controlled in accordance with applicable law, and this policy.
- ii. Accessing Security Cameras
  - a. Only the Director and Assistant Director have access to cameras and are authorized to download videos, but only may share videos in accordance with the provisions of this policy.
  - b. Any modification of the settings for security cameras must be done by, at the direction of, or with permission from either the Director or the Assistant Director.
- iii. Sharing Videos
  - a. Any sharing or disclosure of any security video shall be determined in accordance with the provisions of Sections 7.A, 7.B and 7.C of this policy, in a similar manner to all other library records.

- b. Before authorizing the sharing or disclosure of any security camera video footage, the Director, Assistant Director, or authorized designee, will review all requested video footage to determine if it contains any personally identifying details regarding any user(s) of the Library.
- c. Some examples of the types of circumstances when disclosure may be necessary for the proper operation of the Library include, but are not limited to, if a theft or incident occurred off or on Library property and Library initiates the request for the police or other law enforcement agency/agencies to get involved.
- d. If the police or other law enforcement agency contact the Library and request video footage for reasons the Library deems not necessary for the proper operation of the Library, the police or other law enforcement agency must present a subpoena issued by a court or court order directing such disclosure, as discussed above. If the request comes from a federal agency, such as the FBI, then the applicable procedures set out in Sections 7.C and 7.D of this policy shall apply.
- e. If the police or other law enforcement agency requests security video, which does not contain any names or other personally identifying details regarding any user(s) of the Library, then the Library generally will share the requested video, subject to the provisions of Section 7.A and 7.B of this policy, as applicable.
- f. Except as provided in Sections 7.B.iii and 7.C of this policy, if any staff member receives a request for video from anyone inside or outside of the Library, before promising or doing anything else, the staff member shall notify the Director or Assistant Director, or the authorized designee, who shall contact the Director or Assistant Director and ask for direction.
- g. The Director or Assistant Director, in consultation with the Library's legal counsel, as appropriate, will determine whether the request satisfies one of the circumstances constituting an exception, or if the requestor should be advised that a subpoena issued by a court or court order will be required before the Library can share the requested video.
- h. Upon receipt of any request for video, the Director or Assistant Director may access the Library's security cameras, download the requested videos, and save the relevant video(s) on a flash drive or other secure data storage device

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and maintain the stored video in a secure location, until the Library determines what action to take with regard to the saved video.

- i. Before any time video is shared in any way with any third party, except if shared pursuant to Sections 7.B.iii or 7.C of this policy, the Director must be notified first; otherwise, the Director must be notified as soon as possible thereafter.
- j. All other Library staff are not permitted to share footage with patrons. If a patron requests footage, a written request should be prepared and submitted to the Director. The Director or Assistant Director will decide whether to share footage with members of the public in accordance with the guidelines set out in this policy and applicable law.
- k. If a Library user requests disclosure of video in which the Library user appears, the Library only will share that video if the requesting user is the only Library user appearing in the video. Otherwise, all Library users appearing in a video must consent to its disclosure before the Library will share any video based on a user request.

## 8. Information the Library Shares in the Ordinary Course of Library Operations

### A. Third-Party Library Services Providers.

- i. The Library uses third-party library service providers and technologies to help deliver some of our services to our customers. If and when a customer chooses to use such services, they may share the user's personal information with these third parties, but only as necessary for them to provide services to the Library or to help the Library provide the services to our customers.
- ii. The Library also may display links to third-party services or content. By following links, users may be providing information (including, but not limited to Personal Information) directly to a third party, to the Library, or to both. Users acknowledge and agree that the Library is not responsible for how those third parties collect or use customers' information. The New Jersey statute on Confidentiality of Library Records<sup>4</sup> may not apply to these third-party vendors.
- iii. The Library requires all third party vendors either to agree to adhere to strict confidentiality obligations in a way that is consistent with this Confidentiality and Privacy Policy, and the agreements we enter into with them, or the third party vendors

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<sup>4</sup> N.J.S.A. §18A:73-43.2

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post their own privacy policy so it is readily accessible to Library users. The Library encourages all users to review the privacy policies of every third-party website or service that they visit or use, including those third parties with whom the user interacts through the Library services.

### B. Content Users Voluntarily Share with the Library Community.

- i. The Library provides access for users through various social media outlets including, for example, the Library's Facebook page, Pinterest account, Instagram account, and Twitter feed.
- ii. Users, who access the Library through any of its social media outlets, and choose to share content by posting to such account, may cause such shared content to be accessible to the public. Users can use their own social media privacy settings to limit what they share publicly. Users also can delete some content they shared, but some interactive shared content may persist in association with the individual's registered user account, even after the account is terminated.
- iii. The Library also may make opportunities available for users to share content through the Library's website and/or mobile applications. Users posting content to the Library's website or through its mobile apps may cause their content to become accessible to the public and, even if subsequently deleted, such content still may exist in the public domain.
- iv. Therefore, users should be mindful when participating in shared content activity through our Library services that the content may become accessible to the public as a direct consequence of the user's actions, and through no direct action by the Library.

### 9. Miscellaneous Issues

- A. The Library may use records to distribute Library-related information to registered borrowers.
- B. The Library may use information collected in aggregate for statistical analysis and planning purposes.
- C. The Library Director is the designated custodian of records.
- D. Any other disclosure of library records is prohibited unless required by law.

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Approved: December 21, 2020.  
Montclair Public Library Board of Trustees