



## **BERGENFIELD PUBLIC LIBRARY Confidentiality of Public Records Policy**

The Trustees and staff of the Bergenfield Library recognize the need to protect the library user's right to privacy regarding information obtained for registration purposes and for information sought or received by the Library, including materials borrowed.

By the laws of the State of New Jersey and in accordance with the American Library Association's Code of Ethics, the records of patron use of library resources, materials or services are regarded as confidential.

N.J.S.A. 18A: 73 - 43.2, entitled "Confidentiality of Library Users' Records", reads:

Library records which contain the names or other personally identifying details regarding the users of libraries are confidential and shall not be disclosed except in the following circumstances:

- a. The records are necessary for the proper operation of the library;
- b. Disclosure is requested by the user; or
- c. Disclosure is required pursuant to a subpoena issued by a court or court order.

The American Library Association's Code of Ethics (1995) Section 3 states: "We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted."

Confidential records shall include any documents containing a patron's identifiable information, including but not limited to the patron's name, address, telephone number, materials checked out presently and in the past, current or previous requests for materials, and any complaints or other identifiable records kept on file.

Confidential information will be made available to persons acting within the scope of their duties in the administration of the library.

Confidential information will be made available to any agency of the federal, state, county or local government or to any other person, when and if a court order or search warrant requiring disclosure has been entered by a court of competent jurisdiction.

As a public entity, the Library is legally required to comply with information requests pursuant to the USA Patriot Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, P.L. 107-56, October 26, 2001, as amended and reauthorized on March 9, 2006).

In providing information pursuant to this act or by court order, the Library shall adhere to the following procedures:



1. Any requests for information regarding a library user are to be referred to the Library Director, or Person-in-Charge, who will explain the Library's policy and the New Jersey law regarding confidentiality of library users' records.
2. If the Library staff member is presented with a subpoena or court order, s/he is to refer the presenter to the Library Director, or Person-in-Charge, who is to contact the Library's attorney to verify its validity and advise the Library of what action to take.
3. If the Library staff member is presented with a search warrant from a law enforcement officer, s/he is not to interfere with their search and seizure. The staff member is to contact the Library Director, or Person-in-Charge, immediately. If possible, the officer presenting the warrant should be asked to allow the Library to consult with legal counsel first and for the Library's counsel be present during the search. Whether or not the law enforcement official agrees to wait for legal counsel, the Library's attorney should be contacted. A search warrant must be specific as to the information requested. Information outside the scope of a search warrant should not be released.
4. In the case of any request for information regarding a library user, the Library Director, or Person-in-Charge, should request identification and document the request with the requesting person's name, telephone number, and information being requested. A copy of a subpoena or court order should be forwarded to the Library's attorney for review. The Board President should be notified.

Under the USA Patriot Act, the person whose records are subject to a court order may not be notified that a court order has been served. A supervisor or the Library's attorney may be contacted without violation of the Act. Staff shall not inform anyone else of the existence of the search warrant.

The USA Patriot Act permits the FBI to get a court order from the Foreign Intelligence Surveillance Act (FISA) court to retrieve library usage records of someone who is under investigation of involvement in an ongoing terrorist or intelligence investigation.

In the case of a subpoena, court order or a search warrant, records shall be kept of all legal requests and all costs incurred by the Library (including additional staff time and replacement of equipment). The Director, or Person-in-Charge, should obtain a receipt for any records or materials turned over to law enforcement. This Act absolves all institutions and employees from any liability for releasing personal information in compliance with a FISA court order.

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Approved by Board of Trustees, June 10, 2010