

# Somerset County Library System – Policy Manual

## **CHAPTER IV -- OPERATING POLICIES**

### **IV. Confidentiality of Library Records**

#### A. Introduction:

- a. The patron records of the Somerset County Library System are confidential, and the library staff 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.

#### B. Legal:

- a. The New Jersey law NJSA 18A:73-43.1-3 requires that library records which contain the names or other personally identifying details regarding the users of libraries are confidential and shall be disclosed only in the following circumstances:
  - i. The records are necessary for the proper operation of the library;
  - ii. the disclosure is requested by the user;
  - iii. or disclosure is required pursuant to a subpoena issued by a court or court order.
- b. In addition to the New Jersey statute, the federal USA PATRIOT Act of 2001 broadens the powers of federal law enforcement agencies investigating cases involving foreign intelligence and international terrorism. Under this law, disclosure may be required pursuant to a search warrant or court order.
  - i. Any person or institution served with a warrant may not disclose that a warrant has been served or that records were produced pursuant to the warrant.
- c. Library employees are responsible for strictly adhering to this policy. Anyone who discloses confidential information to an individual as outlined below may be severely reprimanded, up to and including termination.

#### C. Requests for information from individuals

- a. No information concerning an individual patron shall be disclosed to another individual. Such information includes the patron's name, address and telephone number as well as information about:
  - i. Whether the individual is currently a registered borrower or has been a borrower in the past;
  - ii. Materials checked out either currently or in the past;
  - iii. Questions asked by the individual;

- iv. Resources consulted by the individual whether print, non-print or electronic;
  - v. Database searches conducted for the individual;
  - vi. The frequency or nature of the patron's visits to the library;
  - vii. Any other information supplied to the library by the patron or included in the patron's borrower record.
- b. Only the cardholder has access to information about his or her library record, *or may agree to have their card linked to others in their household.*
  - c. Children are also entitled to confidentiality. Unless the family has a linked card, when a parent asks for information about their child's record, the information may be given only if the child is present and consents. If the child is not present, a list of materials checked out or overdue may be mailed to the child, at the request of the parent. All other information shall be disclosed to the cardholder only.

D. Requests for information from local, county, or state governmental agencies

- a. Any library employee or volunteer who receives a request other than a court issued document from a representative of a local, county or state agency, including police departments, to make any library records available for examination, or who is asked to furnish confidential patron information, shall not produce any records or release any information. The employee or volunteer shall:
  - i. take the requestor's name, address, telephone number and other contact information, and
  - ii. immediately forward the request to the person in charge of the branch at that moment.
- b. The person in charge shall immediately forward the request to the County Library Administrator, and also contact him/her directly. In that person's absence, the process shall be used with the Director of Public Services or the Director of Operations.
- c. The County Library Administrator, the Director of Marketing, Public Services or Operations, or *another* designated spokesperson shall explain the SCLSNJ policy of confidentiality to the requestor and shall refuse to produce any records or information.
- d. If a subpoena issued by a court or a court order is served upon any employee or volunteer of the SCLSNJ, including its branches, the person in charge of the branch at that moment shall immediately notify the County Library Administrator and/or one of the Directors. The County Library Administrator or a Director shall consult with the attorney for the Library Commission to determine whether SCLSNJ is compelled to comply.
  - i. No records shall be released to any party even upon the service of a subpoena or court order unless and until the County Library Administrator and the SCLSNJ legal counsel have had the opportunity to review the subpoena or court order, and appear if necessary before the appropriate authority to raise questions and/or objections regarding the release of such information.

- ii. Should a court order be issued by a court after a full hearing in which the Library Commission or its designated representative has participated, only the records specifically cited in the subpoena or court order shall be released, and only by the County Library Administrator or a designated representative of the SCLSNJ.
    - e. Only the records specifically cited in the subpoena or court order shall be released.
- E. Requests for information from federal governmental agencies
  - a. If a search warrant obtained by the Federal Bureau of Investigation or a similar government agency in compliance with Section 215 of the USA PATRIOT Act is served upon a branch of SCLSNJ, or presented to an SCLSNJ employee or volunteer, said employee or volunteer shall immediately notify the on-site person in charge, who shall take responsibility for the matter immediately.
  - b. If the person in charge is able to produce the item or items requested in the search warrant, he/she should do so and shall not disclose to any other person or persons, other than the library's legal counsel, that the FBI has sought or obtained tangible effects under this section.
  - c. If the person in charge is not able to produce the requested item or items, he/she should immediately notify the County Library Administrator (or any Director if the County Library Administrator is not available) and he/she shall determine who at SCLSNJ is able to conform to the request stated in the warrant. Since a search warrant can be executed immediately after it is served to the library, the County Library Administrator, a Director, or *other* person in charge are entitled to ask the investigating officer for time to consult with legal counsel and to ask that the library's counsel be present during the search.
  - d. All library employees and volunteers who have knowledge that a search warrant that is in compliance with Section 215 of the USA PATRIOT Act has been served upon the library may consult with the library's attorney 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 Commission, government officials, family or friends.
- F. Confidentiality of the process
  - a. Nondisclosure provisions always apply to subpoenas and search warrants issued under the USA PATRIOT Act, but may also apply to other types of court orders, subpoenas and warrants. In this case, the same confidentiality procedures apply.
  - b. Any questions or problems not covered in this policy should be immediately referred to the County Library Administrator or a Director.

*Approved 4/15/93*

*Amended 11/5/97*

*Amended 5/7/03*

*Amended 5/5/04*

*Amended 1/2/14*

*Amended 12/7/16*