300-02 — Confidentiality of Library Records and Law Enforcement Inquiry

Statement of Purpose

The Fairport Public Library respects the privacy of its patrons. All library records relating to patrons' use of the Library and its resources are considered confidential. This policy is meant to protect the privacy of library users while complying with the Constitution of the United States of America, federal statutes, and the Code of New York (Civil Practice Law & Rules Section §4509, Appendix A). For this reason, while the Library will assist to the extent allowed by law, a duly authorized warrant, court order, or subpoena will be required prior to release of library user information. The Library may also elect to release any library record it determines must be released for the proper operation of the Library.

Confidentiality extends to information sought or received, and/or materials consulted, borrowed, or acquired. This includes such records as database search records, Internet use history, reference interviews, circulation records, interlibrary loan records, and any other records identifying the names or other personally identifiable information (PII) of library users. PII are those that include any information that could reasonably be used to identify a user, including a name, address, e-mail address, birth date, or any combination of information that could be used to identify a user.

Library employees are advised that such records shall not be made available to any agency of the federal, state, or local government, except pursuant to such process, order, or subpoena, warrant and/or court order as may be authorized under the authority of, and pursuant to, federal, state, or local law relating to civil, criminal, or administrative discovery procedures or legislative investigatory power.

The director shall defer compliance with any such process, order, or subpoena until consultation with library counsel and direction of the Library Board of Trustees, unless such instrument is immediately executable by law.

The Library may disclose details of user services to a parent or guardian of a minor, in the same manner as such details are made known to the user, when such parent or guardian incurs financial liability to the Library by reason of the minor's use of library services.

Requests for Library Records Procedure (General)

- When an individual requests information relating to circulation or other records identifying the names of library users, past circulation records (including interlibrary loan and audio-visual materials), or personal information contained in circulation patron records, the staff member should inform the individual that according to the New York State law this information cannot be provided.
- Parents or legal guardians may be granted limited access to a minor's library records when the inquiry pertains to lost/damaged items or account balances and when the parent or legal guardian is listed as a responsible party on the minor's account.

- If the individual has further questions, they should be directed to the Library Director or, in their absence, an Assistant Director.
- If the individual is a law enforcement officer, staff shall follow the procedures found below.
- The director will designate staff to monitor and track all costs associated with fulfilling the subpoena, court order, or warrant.
- If the individual attempts a search or seizure without proper authorization, staff should not physically intervene. Rather, continuously let the officer know that "access is denied/not granted."

Requests for Library Records Procedure (Subpoena or Court Order)

- Upon receipt, the staff member shall immediately notify the Director or, in their absence, an Assistant Director.
- If the Director and the Assistant Director are not available, the staff member shall notify the reference librarian.
- The Director, or in their absence, the person-in-charge (Assistant Director or reference librarian) will sign off that the subpoena or court order has been served and shall immediately notify the president of the library board and the library's attorney, whose contact information can be found on the Emergency Contact list. The requested documents will be identified on the subpoena or court order.
- If the individual attempts to coerce staff to immediately turn over documents, staff should inform the individual that they are not authorized to do so and should refer the individual to the Director or the Assistant Director. Court orders or subpoenas do not have to be responded to immediately.

Requests for Library Records Procedure (Search Warrant)

- Upon receipt, the staff member shall immediately notify the Director or, in their absence, an Assistant Director that a warrant has been implemented. The president of the library board and the library's attorney should be immediately contacted. A copy of the warrant shall be requested and turned over to the Director.
- If the Director and the Assistant Director are not available, the staff member shall notify the reference librarian.
- Search warrants are executable immediately and must not be obstructed.
- If a search warrant is presented, the law enforcement officers have the right to seize whatever is specified in the warrant (records or access to records such as computers, servers, etc.).
- The Director or, in their absence, the person-in-charge will follow up on whether the warrant is still in effect, even if law enforcement officers have already started executing it.

Requests for Library Records Procedure (Search Warrant—FISA)

- Similar to a regular search warrant, *except* a search warrant issued by a FISA (Foreign Intelligence Surveillance Act, USA Patriot Act & USA Freedom Act amendments) court also contains a nondisclosure provision or "gag order"—this means no person or institution served with such warrant can disclose that the warrant has been served or that records have been produced pursuant to the warrant

- Under no circumstances is a staff member to discuss or relate to anyone except the Director or person-in-charge of the event and, specifically, must not name the target of the investigation. If the person-in-charge is first notified, they may relate the information only to the Director. Talking about the investigation is a violation of Federal Law, which supersedes New York State Law on the confidentiality of records.

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Reviewed:
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Appendix A — Civil Practice Law & Rules §4509 Library Records

Library records, which contain names or other personally identifying details regarding the users of public, free association, school, college and university libraries and library systems of this state, including but not limited to records related to the circulation of library materials, computer database searches, interlibrary loan transactions, reference queries, requests for photocopies of library materials, title reserve requests, or the use of audio-visual materials, films or records, shall be confidential and shall not be disclosed except that such records may be disclosed to the extent necessary for the proper operation of such library and shall be disclosed upon request or consent of the user or pursuant to subpoena, court order or where otherwise required by statute.