

The Rutherford Public Library Privacy Policy

Privacy is essential to the exercise of free speech, free thought, and free association. In this library the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf.

The records of patron use of library resources, materials or services are confidential per the laws of the State of New Jersey¹ and in accordance with the American Library Association's Code of Ethics². All records concerning library users and materials used or checked out by users are confidential and will not be made available to any agency of the federal, state, county or local government or to any other person unless a court order or search warrant requiring disclosure has been entered by a court of competent jurisdiction or persons acting within the scope of their duties in the administration of the library.

As a public institution, 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 Obstruction Terrorism Act, P.L. 107-56, Oct 26, 2001). In providing information pursuant to this act or by another court order, the Library shall follow the following procedures.

1. Any requests for information regarding a library user are to be referred to the Library Director, or designee, who will explain the Library's policy and the New Jersey law.
2. If the Library staff member is presented with a subpoena, he/she is to refer the presenter to the Library Director/designee, 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, he/she is not to interfere with their search and seizure. The staff member is to contact the Library Director, or designee, as soon as possible after a search warrant has been served so that the Director can ask the officer to allow them to consult with legal counsel and to ask that the Library's counsel be present during the search. Whether or not the law enforcement official agrees to await the arrival of counsel, the Library's attorney should be contacted. Library staff shall not interfere with a search conducted with a search warrant. A search warrant must be specific as to the information requested. Information outside of the scope of the search warrant should not be released.

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

In either the case of a subpoena 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 USA Patriot Act permits the FBI to get a search warrant 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. Please note that the USA Patriot Act requires a search warrant and not a subpoena. A search warrant can be executed immediately upon service. A subpoena, on the other hand, allows a party a period of time to respond to and contest same.

The act absolves all institutions and employees from any liability for releasing personal information in compliance with a FISA search warrant. If a staff member fails to comply with an information request, or if information respecting a search warrant is disclosed other than to the Library Director or the Library's attorney, the staff member may be subject to being charged with contempt of court.

If any staff member has any questions concerning this policy, he/she should direct their questions to the Library Director. The Library Director, after consulting with the Library's attorney, will respond to the inquiry.

This policy is determined by the Library Board of Trustees and is subject to periodic review and/or revision at the discretion of the Board. Appeals may be submitted to the Board in writing.

Adopted by the Rutherford Public Library Board of Trustees: May 10, 2005. Revised March 15, 2008.

¹ *NJSA 18A:73-43:2 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.

L. 1985, c. 172, s. 2, eff. May 31, 1985

NOTE: NJ Open Public Records Act does not supersede NJSA 18A:73-43:2

² American Library Association's Code of Ethics (1995) Section 3: "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.