Policy # 17 CONFIDENTIALITY OF LIBRARY RECORDS

A. Confidentiality of Library Records

1. The Library's circulation records and any other records which identify and relate the name of Library users with specific materials are confidential.
    a. Such records will not be released or used for non-Library purposes except pursuant to a subpoena from a court of law or other valid process which specifically indentifies the information required and the purpose for the request.
    b. General public access to such circulation statistics invades the privacy of the individual patron, and would tend to discourage the freedom of inquiry into sensitive or unpopular subject matter.

2. New York State Law

STATE OF NEW YORK
5956-C Cal. No. 120
IN ASSEMBLY
March 3, 1981

Introduced by M. of A. Sanders and Multi-sponsored.

An act to amend the civil practice law and rules, in relationship to Library records.

The people of the State of New York, represented in the Senate and Assembly, do enact as follows:

Section 1. The civil practice law rules is amended by adding a new section forty-five hundred nine to read as follows:

#4509. Library circulation records. Records related to the circulation of Library materials 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 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.

#2. This act shall take effect immediately.

Signed into law on March 10, 1982 as Chapter 14 of the Laws of 1982 by Governor Carey.

3. Policy of Confidentiality of Library Records *

   The Council of the American Library Association strongly recommends that the responsible officers of each Library in the United States:

   a. Formally adopt a policy which specifically recognizes its circulation records and other records indentifying the names of Library users to be confidential in nature.
   b. Advise all librarian and Library employees that such records shall not be made available to any agency of the state, federal, or local government except pursuant to such process, order, or subpoena as may be authorized under authority of, and pursuant to, federal, state, or local law relating to civil, criminal, or administrative discovery procedures or legislative investigative power.
   c. Resist the issuance or enforcement of any such process, order, or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction. **

* Note: ALA POLICY MANUAL 54.15 – CODE OF ETHICS point #3, “Librarians must protect each user’s rights to privacy with respect to information sought or received, and materials consulted, borrowed, or acquired.”

** Note: Point 3, above, means that upon receipt of such process, order, or subpoena, the Library’s officers will consult with their legal counsel to determine if such process, order, or subpoena is in the proper form and if there is a showing of good cause for its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defect be cured.

Adopted January 20, 1971; revised July 4, 1975, by the ALA Council.

4. Procedures For Implementing “Policy On Confidentiality of Library Records”

   a. The Library staff member receiving the request to examine or obtain information relating to the circulation or registration records will immediately refer the person making this request to the responsible officer of the institution, who shall explain the confidentially policy.
   b. The Director, upon receipt of such process, order, or subpoena shall consult with the appropriate legal officer assigned to the institution to determine if such process, order, or subpoena is in good form and if there is a showing of good cause for its issuance.

c. If the process, order, or subpoena is not in proper form or if good cause has not been shown, insistence shall be made that such defects be cured before any records are release. (The legal process requiring the production of circulation records shall ordinarily be in the form of subpoena “duces tecum” {bring your records} requiring the responsible officer to attend court or the taking of his/her deposition and may require him/her to bring along certain designated circulation records.)
d. Any threats or unauthorized demand (i.e., those not supported by a process, order, or subpoena) concerning circulation or registration records shall be reported to the appropriate legal officer of the institution.
e. Any problems relating to the privacy of circulation and registration records which are not provided for above shall be referred to the responsible officer.

Adopted by the ALA Intellectual Freedom Committee, January 9, 1983.

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