

Argyle Free Library: Confidentiality of Library Records Policy

POLICY STATEMENT

The Joint Automation Council of Mohawk Valley Library System (MVLS), the Southern Adirondack Library System (SALS), and the Argyle Free Library support our nation's efforts to preserve and protect the many hard-fought freedoms we enjoy as Americans. We have the responsibility of protecting the privacy of our patrons in accordance with New York State Law*. Therefore, we will do our utmost to uphold the privacy and confidentiality of patrons' free access to information while responding to legitimate security concerns.

Library records, as defined by NYS law CVP 4509, should not be released or made available in any format to a federal agent, law enforcement officer or other person unless a court of competent jurisdiction has entered a court order in proper form.

The Joint Automation Project does not record patron usage of database searches, individual member library computer use or interlibrary loan requests for materials outside of the systems.

REGULATIONS

1. Library records that are not necessary for the proper operation of the Argyle Free Library and its systems are purged after 30 days. It is the responsibility of library staff to purge their individual email and/or user files.
2. A visit by a law enforcement officer to the Argyle Free Library
 - a. If anyone approaches a staff member alleging to be a law enforcement official requesting information, do not disclose any information to that individual.
 - b. Immediately contact the Library Director who will contact the President of the Argyle Free Library Board. If the Board President is not available, the Library Director will contact the Vice President, or continue down the Board List until a board member is reached.

If staff cannot contact the Library Director, then staff will contact the Board President directly. If the President cannot be reached, then staff will continue down the list of Board Members until contact with a Board Member is successfully made.
 - c. A photocopy of law enforcement's ID will be made by senior staff.
 - d. **Court Order.** If law enforcement does not have a **court order** compelling the production of records, the Director (or Board Member) should cite the state's confidentiality law (see Additional Information below), and inform law enforcement that users' records are not available except when a proper court order in good form has been presented to the library system. Without a court order, law enforcement has no authority to compel cooperation with an investigation or require answers to questions, other than the name and address of the person speaking to law enforcement.
 - e. **Subpoena.** If law enforcement presents a **subpoena**, the Library Director will contact the Board President, who in turn will contact legal counsel.
 - f. **Warrant.** If law enforcement presents a **warrant**, to either staff or the Director or Board Member, do not interfere with their search and seizure. The Director should be contacted as soon as possible. The Library Director shall notify the President. The President will notify legal counsel.
3. Keep a record of all law enforcement requests.

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4. Keep a record of all costs incurred by any search and/or seizures.
5. **FISA Warrant.** A search warrant issued by a **FISA (Foreign Intelligence Surveillance Act)** court contains a “Gag” order. That means that no person or institution served with the warrant can disclose that the warrant has been served or that records have been produced pursuant to the warrant. The library and its staff must comply with this order. No information can be disclosed to any other party, including the patron whose record is the subject of the search warrant.

Additional Information:

New York State Civil Practice Law Section CVP 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."

Case Law

“It is the court’s determination that disclosure of the information sought [i.e., employees who used the Southern Adirondack Library System’s “Library Without Walls” electronic information service to explore the Internet] should not be permitted. ... Were this application to be granted, the door would be open to other similar requests made, for example, by a parent who wishes to learn what a child is reading or viewing on the ‘Internet’ via ‘LWW’ or by a spouse to learn what type of information his or her mate is reviewing at the public library.” (Quad/Graphics, Inc. v. Southern Adirondack Library System, 174 Misc. 2d 291, 664

NYS 2d 225, September 30, 1997).

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“Based upon [Section 87 (2) (a) through (I) of the Freedom of Information Law and Section 4509 of the CPLR], I believe that registration cards or other library records containing ‘names or other personally identifying details’ concerning library users are confidential.” (Committee on Open Government Advisory Opinion FOIL-AO-6721, July 10, 1991).

Approved by the Joint Automation Council on July 29, 2003