



## DENTON PUBLIC LIBRARY

### CONFIDENTIALITY OF LIBRARY CUSTOMER RECORDS POLICY

Revision approved by the Denton Library Board on August 1, 2002

Pending - Library Board ~~approved revision, August 8, 2022~~

**POLICY STATEMENT:** The freedom to read encourages responsible citizenship and open debate in the marketplace of ideas. The beneficial objectives of a free democratic society will be promoted if citizens have, and are assured that they have, the freedom to read and the opportunity to consider all types of information.

The First Amendment of the Constitution of the United States protects free speech and a free press. The Constitution of the State of Texas provides that “no law shall ever be passed curtailing the liberty of speech or of the press.” A corollary of those constitutional guarantees is the corresponding freedom to read what is written, hear what is spoken, and view other forms of expression without fear of intrusion, intimidation or reprisal. The guarantee of privacy for readers, hearers and viewers will ensure this freedom.

The library is a central resource where information and differing points of view are available. Library users will be free to choose library materials and services without government, community, or individual interference. Nothing in this policy statement, however, should be construed to prevent the library from adopting and enforcing reasonable rules and regulations to protect, maintain, and ensure peaceable use of library materials and services for members of the public.

This library directive is pursuant to Texas Government Code § 552.124, referred herein as the Texas Open Records Act relating to making confidential a record that would identify a person who uses library services or materials. A copy of this section of the Texas Open Records Act is attached to this administrative directive.

The Denton Public Library System supports every customer’s right to have his or her library records remain confidential. However, Denton Public Library cooperates with law enforcement agencies when library equipment or facilities have been used in the commission of a crime.

Library records include customer:

- registration data
- circulation records
- overdue and reserve records
- participation in library sponsored programs
- record of library visits
- public computer access
- public computer software use and internet history records

- and/or any data that contains information that links a specific customer to specific materials

Each customer has individual responsibility over his or her borrower's card and only the cardholder may access information about his or her current circulation record. Records of transactions shall be kept no longer than needed for library administration purposes. A list of these records and their retention schedule is attached to this policy.

The above listed records will not be released to any person, agency, or organization, except that information which is required to be released by law. Records which identify or serve to identify a person who requests, obtains, or uses library materials are confidential and are exempt from required disclosure under the Texas Open Records Act. Such records generally may be disclosed only if:

- A. The records are required in response to a valid court order or subpoena as provided for under the provisions of the Texas Open Records Act and properly presented to the Director of Libraries and reviewed by the City Attorney's office.
- B. The library determines that disclosure is reasonably necessary to the operation of the library and the records are not confidential under other state or federal law.
- C. The records are released to the person to whom the information relates; or the person to whom the information relates has given permission, in writing, for the information to be released.

**Regarding Parental Access to Records:** Private information may be released to the parent or guardian indicated as the adult responsible for the account of an unemancipated minor age seventeen (17) or under. The parents or guardian on the account must provide an accepted form of I.D., as listed in the Circulation Services Policy.

The library is required by law to comply with the USA PATRIOT ACT which relaxed the requirements for obtaining court orders and search warrants in investigations concerning national security and terrorism. The Act also expanded the range of records that can be searched in these investigations to include business records such as those of libraries and bookstores. Furthermore, if such a search is conducted, Library staff cannot tell you that your records were given to law enforcement agencies or that you were the subject of an investigation. This Act supercedes all state and local confidentiality and privacy laws.

Nothing in this policy shall prevent authorized library personnel from using library records in the administration of their regular duties. By separate action, the Denton Public Library System has endorsed the recommendations of the American Library Association's *Policy on Confidentiality of Library Records*, which is attached to this policy.

## RECORD RETENTION SCHEDULE FOR CUSTOMER RECORDS

Pending – Library Board, August 8, 2022

**Accident Reports** - Reports of accidents on library property:

Adults – Records are retained for three (3) years from the date of the report if NO claim was filed or if claim filed, for a retention period of three (3) years after settlement/denial.

Minors – Records are retained until the minor reaches the age of maturity plus three (+3) years if NO claim was filed or if claim filed, for a retention period of three (3) years after settlement/denial.

**Circulation Reports** – Lists and/or reports generated daily are shredded at the end of the business day.

**Circulation Records** – Customer circulation information is retained on material if it is returned overdue or a fee is incurred. The patron number (.p) of the last customer to check out an item is retained on returned materials for one week.

**Customer Response Forms** – Only those forms which address a complaint are retained until resolution or dismissal plus two (+2) years.

**Incident Reports** – Reports of incidents relating to adults and minors on library property are retained one (1) year in the Administration office and four (4) years in storage for a total retention period of five (5) years.

**Interlibrary Loan Records** – Records of lost or unreturned items are retained by the ILL coordinator for a retention period of three (3) years.

## **American Library Association Policy on Confidentiality of Library Records**

The Council of the American Library Association strongly recommends that the responsible officers of each library, cooperative system, and consortium in the United States:

1. Formally adopt a policy that specifically recognizes its circulation records and other records identifying the names of library users to be confidential. (See also [ALA Code of Ethics](#), Article III, "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" and [Privacy: An Interpretation of the Library Bill of Rights](#).)
2. Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order or subpoena 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 investigative power.
3. Resist the issuance of 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.<sup>1</sup>

<sup>1</sup>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 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 defects be cured.

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Adopted January 20, 1971, by the ALA Council; amended July 4, 1975; July 2, 1986.

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TEXAS OPEN RECORDS ACT  
TEXAS GOVERNMENT CODE Sec. 552.124.  
EXCEPTION: CONFIDENTIALITY OF RECORDS OF LIBRARY  
OR LIBRARY SYSTEM.

(a) A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from the requirements of Section 552.021 unless the record is disclosed:

(1) because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law;

(2) under Section 552.023; or

(3) to a law enforcement agency or a prosecutor under a court order or subpoena obtained after a showing to a district court that:

(A) disclosure of the record is necessary to protect the public safety; or

(B) the record is evidence of an offense or constitutes evidence that a particular person committed an offense.

(b) A record of a library or library system that is excepted from required disclosure under this section is confidential.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.03(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1035, Sec. 11, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1229](#) (S.B. 602), Sec. 16, eff. September 1, 2011.