
CONFIDENTIALITY OF LIBRARY USER RECORDS

Purpose

The Nesmith Library of the Town of Windham values the confidentiality and privacy of its patrons and recognizes the value of such confidential treatment to the principles and purposes of the Library.

This policy is established in accordance with RSA 201-D:11. The purpose of this Policy is to establish a policy and protocol for the maintenance of confidentiality of Library Records, as defined here, and to identify the protocols and circumstances when such Library Records may be disclosed.

I. Definitions

The terms set forth in this Section II shall have the definitions set forth below:

- A. "Library Records" shall mean any record, whether in paper or electronic format, that may identify information regarding the users of the public library or other public libraries. Such records shall include library, information system, and archival records related to the circulation and use of library materials or services, including records of materials that have been viewed or stored in electronic form."
- B. "Library" shall mean the Nesmith Library of the Town of Windham, New Hampshire, as operated by the Nesmith Library Board of Trustees.
- C. "Director" shall mean the Director of the Library.
- D. "Board" shall mean the Nesmith Library Board of Trustees.
- E. "Business Day" for the purposes of this Policy shall mean Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.
- F. "Minor" shall mean any person who has yet to reach the age of eighteen (18) years of age, unless the minor is the subject of an order of emancipation issued by a Court of competent jurisdiction and said order of emancipation identifies that the minor person is authorized to make decisions related to the confidentiality and disclosure of confidential records.
- G. "Parent" shall have the same definition as set forth in RSA 169-C:3 and shall be defined as mother, father, adoptive parent, stepparent, but such term shall not include a parent as to whom the parent-child relationship has been terminated by judicial decree or voluntary relinquishment.
- H. "Legal Guardian" shall have the same definition as set forth in RSA 169-C:3 and shall be defined as a parent or person appointed by a court having jurisdiction with the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child, and to be concerned

about the general welfare of the child. Such duty and authority include but are not necessarily limited either in number or kind to:

- i. The authority to consent:
 1. to marriage;
 2. to enlistment in the armed forces of the United States, and
 3. to major medical, psychiatric and surgical treatment,
 4. to represent the child in legal actions; and
 5. to make other decisions of substantial legal significance concerning the child;
- ii. The authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order; and
- iii. The rights and responsibilities of legal custody except where legal custody has been vested in another individual or in an authorized agency.

II. Confidentiality of Records and Authorized Disclosures

- A. The Library shall maintain and treat as confidential Library Records which “contain the names or other personal identifying information regarding the users of public or other than public libraries.” The Library shall not reveal any information about an account to anyone other than the cardholder.
- B. Notwithstanding the limitations set forth in Section II(A), the Library may disclose confidential Library Records to the extent necessary for the proper operation of such libraries and shall be disclosed upon request by or consent of the user or pursuant to subpoena, court order, or where otherwise required by statute. Any entity seeking the disclosure of Library Records in accordance with this Section II(B) shall be required to adhere to the process set forth in Section III(A) below.
- C. All Library Records related to a Minor's current borrowing of printed library materials and audio-visual materials, such as DVDs and CDs shall be made available to:
 - i. either Parent or the Legal Guardian of the minor when requested by either Parent or the Legal Guardian of the Minor, or
 - ii. the Parent or Legal Guardian of the Minor whose address matches that on the library account or who is listed on the library account.

All requests for Library Records of Minors sought by a Parent shall be made in accordance with Section III (B) below.

- D. In addition to the foregoing, the Library may release statistical information and other data regarding the circulation or use of library materials so long as the identity of the users of such library materials are treated confidential and are not disclosed to the general public.

III. Procedure For Authorized Release of Confidential Library Records

- A. All court processes, orders, or subpoenas should be directed to the Director and should be delivered during a regular Business Day of the Library. Upon receipt of such process, order, or subpoena, the Director or Board will consult with the attorney for the Town of Windham 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, the Director, or legal counsel for the Town, shall notify the requesting party of any such defects and shall not disclose Library Records in response to said defective process, order, or subpoena.
- B. Access to Library Records of a Minor shall be limited to the Parent or Guardian of the Minor that is the subject of the request. Requests for records must be made at the cardholder's home library.
 - i. Any request from a Parent or Legal Guardian to access a Minor's Library Records shall be made on the Library's Request for Minor's Current Library Records Form.
 - ii. All such requests shall be treated as a request for public records made in accordance with RSA 91-A:4. All requests must be accompanied by proof satisfactory to the Director that the individual requesting the record is authorized to make a request in accordance with RSA 201-D:11, II-a and Section II(C) above. This proof may include, but is not limited to, the following or a combination thereof:
 - 1. The Minor's Birth Certificate;
 - 2. A Court Ordered Parenting Plan;
 - 3. An Court-Issued Order of Appointment of Guardianship;
 - 4. A Court-issued Child Custody Order;
 - 5. A Court-issued Divorce Decree;
 - 6. A Driver's License or Passport confirming the identity of any individual claiming to be a Parent or Guardianship;
 - 7. Such other records as may be deemed suitable to the Director in the Director's discretion.
 - iii. If a request is received by any employee of the Library, other than the Director, that request shall be promptly provided to the Library Director or Assistant Director.
 - iv. The Library shall, within five Business Days' receipt of a Request shall either:
 - 1. Provide the Library Records requested;
 - 2. Deny the request either in whole or in part and identify the basis for the denial, inclusive of the statutory authority underlying the basis for the denial together with an explanation of how that exemption applies to the Library Records sought; or

3. Identify that additional time is needed to respond to the request.
- v. The Library reserves the right to request documentation from a Parent or Legal Guardian whose address does not match that of the Minor or who is not listed on the Minor's library account.
 - vi. In applying for a library card for a Minor, a Parent or Legal Guardian may designate those individuals that are authorized to make requests for a Minor's Library Records pursuant to Section II(C) and the Library shall be authorized and entitled to rely upon such information until otherwise notified by a Parent or Guardian.
 - vii. Nothing contained in this Policy shall require the Library or the Town of Windham to compile, cross-reference, or create any records that do not already exist as of the date of the request, nor to answer general questions that are not reflected in any Library Records.
 - viii. The Library shall not adjudicate the parental rights of two Parents. Any Parent attempting to restrict the Library from disclosing Minor Library Records to another Parent shall be required to provide the Library with a Court Order, bearing the seal of the Clerk of Court, establishing that the Parent's rights to obtain information of the Minor has been restricted.

ADA compliant edits were performed on August 11, 2026.

Reviewed and approved: November 10, 2025 by the Nesmith Library Board of Trustees.