

Library Records and Open Meetings

As a municipal department, the North Babylon Public Library is subject to the Freedom of Information Law. This law reaffirms the public's right to know how the government operates. It provides rights of access to records reflective of government decisions and policies that affect the lives of its constituents.

The law defines a "record" as "any information kept, held, filed, produced or reproduced by, with or for an agency or in the State Legislature, in any physical form whatsoever..." (section 86(4)). Items such as tape recordings and computer discs fall within the definition of a "record."

Any record may be requested; records that fall within nine categories may be denied. Deniable records include records or portions thereof that:

1. Are specifically exempted from disclosure by state or federal statute
2. Would if disclosed result in an unwarranted invasion of personal privacy
3. Would if disclosed impair present or imminent contract awards or collective bargaining negotiations
4. Are trade secrets, or information which if disclosed would cause substantial injury to the competitive position of the subject enterprise
5. Are compiled for law enforcement purposes and which if disclosed would interfere with law enforcement investigations of judicial proceedings, deprive a person of a right to a fair trial or impartial adjudication, identify a confidential source or disclose confidential information relative to a criminal investigation, reveal criminal investigative techniques or procedures
6. Would if disclosed endanger the life or safety of any person
7. Are inter-agency or intra-agency communications, so long as the communications (or portions thereof) are advisory in nature and do not contain information upon which the agency relies in carrying out its duties
8. Are examination questions or answers that are requested prior to the final administration of such questions
9. Are computer access codes

The categories of deniable records are generally directed to the effects of disclosure. They are based in great measure upon the notion that disclosure would in some instances "impair," "cause substantial injury," "interfere," "deprive," "endanger," etc.

For purposes of this policy, library records may be divided into two categories: records that may require the user to obtain a court order or subpoena for their use, and all others.

Both library personnel records and records relating to the circulation of library materials which identify borrowers and/or materials borrowed shall be disclosed only with the written consent of the individual, or pursuant to a process, court 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 procedures or legislative investigatory power. Any person or agency requesting such

a record, lacking the consent of the subject of the record, shall be denied access to the record until the required process, court order, or subpoena is produced. The Board of Trustees reserves the right to resist the issuance or enforcement of any such process, court order, or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction.

Personal information such as home addresses, telephone numbers, social security numbers, etc. of library patrons, staff or trustees may not be disclosed except as outlined above.

Records that are available on written application include, but are not limited to: minute books, books of entry and account, authorizations for payment of bills, contracts, and the contents of library files, except for files subject to use restrictions outlined above.

Library records subject to public inspection are housed in the library building at 815 Deer Park Avenue, North Babylon in the Business Office, the Book Storage Room or the Director's Office. Requests for public access to records shall be accepted and records produced on days that the Library is open to the public during the hours of 9:00 AM to 4:45 PM, Monday through Friday. Records may not be removed from the building.

Under regulations, a Records Access Officer must be appointed to coordinate an agency's response to public requests for records. The Business Office Manager, currently the Director's Secretary, shall be the Records Access Officer and shall be responsible for insuring compliance. In her absence, the Library Director shall designate a back up Records Access Officer. The Records Access Officer shall determine where records may be inspected.

The law states: an agency may ask a requestor to make the request in writing. The law also states: the agency expects a requestor to "reasonably describe" the records of interest. Requests for public access to North Babylon Public Library records must be in writing. Requests must reasonably describe the record or records sought. Within five business days of the receipt of a written request for a record reasonably described, the library must make the record available, deny access in writing giving the reasons for denial, or furnish a written acknowledgement of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to the records is neither granted nor denied within ten business days after the date of acknowledgement of receipt of the request, the lack of response may be construed as denial of access that may be appealed. Denials will advise the requestor of the right of appeal to the Library Director.

Copies of records will be made upon request. The law states: An agency may not charge in excess of 25 cents per photocopy (up to 9x14" inches). The Library will charge 25 cents per photocopy. Fees for copies of other records may be charged based on the actual cost of reproduction. Photocopies in excess of fifty pages will be made subject to the limitations of equipment and availability of staff within five business days of the request. It shall be the responsibility of the requestor to identify the specific page(s) to be copied.

The Open Meetings Law gives the public the right to attend meetings of public bodies, listen to the debates and watch the decision making process in action. The Board of Trustees falls within the framework of this law. "It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and be able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy." (Open Meetings Law sect 100).

A "meeting" is defined as "the official convening of a public body for the purpose of conducting public business." Any time a quorum of a public body gathers for the purpose of discussing public business, the meeting must be open to the public, whether or not there is intent to take action, regardless of the manner in which the gathering may be characterized. Chance meetings or social gatherings are not covered by the law. The law is silent with respect to public participation. The Library is free to permit a "period for public expression" or not, providing rules for such a period are consistent during the individual meeting, i.e., each speaker may speak for 2 minutes.

If a meeting is scheduled at least a week in advance, notice to the public must be accomplished by posting in one or more designated public locations. When a meeting is scheduled less than a week in advance, notice must be given "to the extent practicable" at a reasonable time prior to the meeting. Notices are placed on the public announcement board.

Closed or "executive" sessions may be established by following a number of steps:

1. A motion must be made during an open meeting to enter into executive session
2. The motion must identify "the general area(s) of the subject(s) to be considered"
3. The motion must be carried by a majority of the total membership of the public body (not just a majority of those present)

Eight subjects that may be discussed behind closed doors include:

1. Matters which will imperil the public safety if disclosed
2. Any matter which may disclose the identity of a law enforcement agency or informer
3. Information relating to current or future investigation or prosecution of a criminal offense which would imperil law enforcement if disclosed
4. Discussions regarding proposed, pending or current litigation
5. Collective negotiations pursuant to the Taylor Law
6. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation
7. The preparation, grading or administration of examinations
8. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

All other deliberations are conducted during open meetings. Any vote to appropriate public funds must be taken in public. There is no requirement that an executive session be held at any meeting. An executive session can be attended by members of the public body and any other persons, if authorized by the public body.

Minutes of an open meeting must consist of "a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon." Should any action be taken in executive session, minutes of the actions taken must be compiled and made available. A voting record must be compiled that identifies how individual members voted in every instance in which a vote is taken. Minutes that refer to a split vote must indicate who voted in favor and who voted against. Minutes that have not been accepted by the public body are "unapproved" or "draft" minutes, until such time as they are accepted with or without correction.

Approved by the Board of Trustees
November 21, 2000

Sample Application for Public Access to Library Records

Records Access Officer
North Babylon Public Library
815 Deer Park Avenue
North Babylon, New York 11703-3812

Records Access Officer:

Under the provision of the New York Freedom of Information Law, Article 6 of the Public Officers Law, I hereby request records or portions thereof pertaining to:

(Identify records in which you are interested as clearly as possible).

If there are any fees for copying the records requested, please inform me before filling the request; or please supply the records without informing me if the fees are not in excess of \$_____.

Signature_____

Date: _____

Representing: _____

Mailing Address: _____

Sample Response to Request for Public Access to Library Records

Approved _____

Denied _____ (for the reason(s) checked below)

_____ Confidential Disclosure
_____ Part of Investigatory Files
_____ Unwarranted Invasion of Personal Privacy
_____ Record to which this agency is legal custodian cannot be found
_____ Record is not maintained by this agency
_____ Exempted by statute other than the Freedom of Information Act
_____ Other _____

Signature Title Date

Notice: You have the right to appeal a denial of this application, in writing, to the Library Director, who must fully explain the reasons for such denial in writing.