

BP 4040 LIBRARY AND LEARNING SUPPORT SERVICES

References:

Education Code Section 78100;
Civil Code Section 1798.90;
Accreditation Standard II.C

NOTE: The following policy language in red, underlined ink is legally required.

The District shall have library services that are an integral part of the educational program and will comply with the requirements of the Reader Privacy Act.

❖ **From the current CLPCCD Policy 6110 titled Learning Resources**

1. Purpose

~~Learning resources programs are provided at each college for the purpose of providing professionally chosen materials which meet the needs of the educational programs; providing access to information in print, non-print, electronic and other formats; and teaching information literacy and critical thinking skills.~~

Library and other learning support services for students are sufficient to support the institution's instructional programs. The institution provides access and training to students so that library and other learning support services may be used effectively and efficiently. The colleges systematically assess these services through their program review processes to improve the effectiveness of the services.

NOTE: The following language from current CLPCCD Policy 6110 titled Learning Resources is shown as struck below because the individual colleges maintain their own procedures.

2. Materials Selection

~~The selection policy acknowledges the basic responsibility to provide materials which allow for the free exchange of ideas. No material will be excluded solely on the basis of frankness of language, or the controversial manner an author may use in dealing with religious, political, sexual, social, economic, scientific, or moral issues. Attempts to influence what students read and learn may not violate~~

~~the rights of others nor interfere with the professional responsibilities of the faculty, management and the Board of Trustees, whose judgment on educational matters must remain central.~~

~~Materials will be:~~

- ~~a. provided in all media of communication that will enrich and support the curriculum, taking into consideration the students served; and to provide materials objectively (for example, present all reasonable sides of controversial issues) so that students may develop the practice of critical thinking. Accordingly, faculty members are responsible for requesting books and materials in their special subject fields; the librarians are responsible for planning and maintaining the collection. Gifts to the Chabot College Library are welcome. It should be understood though that the offer of a gift does not imply an obligation to make the gift a part of the permanent collection. When a gift is accepted and made a part of the library collection, the Dean of Learning Resources and Technologies or designee will report the gift in his/ or her regular report to the President of the college.~~
- ~~b. selected which build and enrich the collection of each college in accordance with its mission, guided by a collection development statement which defines the learning resources priorities at each college.~~
- ~~c. accepted as gifts if they meet the same criteria that govern the selection of purchased items.~~

~~3. Challenged Materials~~

~~Serious challenges against the merits of materials shall be recorded on a prescribed form and addressed to the Dean of Academic Services, Learning Resources, who shall advise the Vice President of Academic Services of the challenge received and the disposition thereof. If the person making the challenge is not satisfied, the challenge will be referred to the Vice President of Academic Services for appropriate action and recommendation to the College President. All decisions may be reviewed by the Board whose decisions are final.~~

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **black ink** is from the current Chabot-Las Positas CCD Policy 6110 titled Learning Resources adopted on March 19, 1996. The language in **blue ink** is included for consideration. The **green ink** was added during the administrative review on March 21, 2013. This document was reviewed on April 8, 2013 by Chancellor's Cabinet and on April 9, 2013 by the Chancellor's Council. This document was reviewed by representatives of the Academic Senates on October 21, 2013.

Date Adopted:

(This policy replaces current CLPCCD Policy 6110)

Legal Citations for BP 4040

EDUCATION CODE SECTION 78100

78100. The governing board of each community college district shall provide library services for the students and faculty of the district by establishing and maintaining community college libraries or by contractual arrangements with another public agency.

Civil Code Section 1798.90

1798.90. (a) This title shall be known and may be cited as the Reader Privacy Act.

(b) For purposes of this section:

(1) "Book" means paginated or similarly organized content in printed, audio, electronic, or other format, including fiction, nonfiction, academic, or other works of the type normally published in a volume or finite number of volumes, excluding serial publications such as a magazine or newspaper.

(2) "Book service" means a service that, as its primary purpose, provides the rental, purchase, borrowing, browsing, or viewing of books. "Book service" does not include a store that sells a variety of consumer products when the book service sales do not exceed 2 percent of the store's total annual gross sales of consumer products sold in the United States.

(3) "Government entity" means any state or local agency, including, but not limited to, a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or any individual acting or purporting to act for or on behalf of a state or local agency.

(4) "Law enforcement entity" means a district attorney, a district attorney's office, a municipal police department, a sheriff's department, a county probation department, a county social services agency, the Department of Justice, the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation Division of Juvenile Facilities, the Department of the California Highway Patrol, the police department of a campus of a community college, the University of California, or the California State University, or any other department or agency of the state authorized to investigate or prosecute the commission of a crime.

(5) "Personal information" means all of the following:

(A) Any information that identifies, relates to, describes, or is associated with a particular user, including, but not limited to, the information specifically listed in Section **1798.80**.

(B) A unique identifier or Internet Protocol address, when that identifier or address is used to identify, relate to, describe, or be associated with a particular user or book, in whole or in partial form.

(C) Any information that relates to, or is capable of being associated with, a particular user's access to or use of a book service or a book, in whole or in partial form.

(6) "Provider" means any commercial entity offering a book service to the public.

(7) "User" means any person or entity that uses a book service.

(c) A provider shall not knowingly disclose to any government

entity, or be compelled to disclose to any person, private entity, or government entity, any personal information of a user, except under any of the following circumstances:

(1) A provider shall disclose personal information of a user to a law enforcement entity only pursuant to a court order issued by a duly authorized court with jurisdiction over an offense that is under investigation and only if all of the following conditions are met:

(A) The court issuing the order finds that probable cause exists to believe the personal information requested is relevant evidence to the investigation of an offense and any of the grounds in Section 1524 of the Penal **Code** is satisfied.

(B) The court issuing the order finds that the law enforcement entity seeking disclosure has a compelling interest in obtaining the personal information sought.

(C) The court issuing the order finds that the personal information sought cannot be obtained by the law enforcement entity seeking disclosure through less intrusive means.

(D) Prior to issuance of the court order, the law enforcement entity seeking disclosure provides, in a timely manner, the provider with reasonable notice of the proceeding to allow the provider the opportunity to appear and contest issuance of the order.

(E) The law enforcement entity seeking disclosure has informed the provider that it has given notice of the court order to the user contemporaneously with the execution of the order, unless there is a judicial determination of a strong showing of necessity to delay that notification for a reasonable period of time, not to exceed 90 days.

(2) (A) A provider shall disclose personal information of a user to any of the following only if all of the conditions listed in subparagraph (B) are satisfied:

(i) A government entity, other than a law enforcement entity, pursuant to a court order issued by a court having jurisdiction over an offense under investigation by that government entity.

(ii) A government entity, other than a law enforcement entity, or a person or private entity pursuant to a court order in a pending action brought by the government entity or by the person or private entity.

(B) A provider shall disclose personal information of a user pursuant to subparagraph (A) only if all of the following conditions are satisfied:

(i) The court issuing the order finds that the person or entity seeking disclosure has a compelling interest in obtaining the personal information sought.

(ii) The court issuing the order finds that the personal information sought cannot be obtained by the person or entity seeking disclosure through less intrusive means.

(iii) Prior to issuance of the court order, the person or entity seeking disclosure provides, in a timely manner, the provider with reasonable notice of the proceeding to allow the provider the opportunity to appear and contest the issuance of the court order.

(iv) The provider refrains from disclosing any personal information pursuant to the court order until it provides, in a timely manner, notice to the user about the issuance of the order and the ability to appear and quash the order, and the user has been given a minimum of 35 days prior to disclosure of the information within which to appear and quash the order.

(3) A provider shall disclose the personal information of a user to any person, private entity, or government entity if the user has

given his or her informed, affirmative consent to the specific disclosure for a particular purpose.

(4) A provider may disclose personal information of a user to a government entity, if the government entity asserts, and the provider in good faith believes, that there is an imminent danger of death or serious physical injury requiring the immediate disclosure of the requested personal information and there is insufficient time to obtain a court order. The government entity seeking the disclosure shall provide the provider with a written statement setting forth the facts giving rise to the emergency upon request or no later than 48 hours after seeking disclosure.

(5) A provider may disclose personal information of a user to a government entity if the provider in good faith believes that the personal information is evidence directly related and relevant to a crime against the provider or that user.

(d) (1) Any court issuing a court order requiring the disclosure of personal information of a user shall impose appropriate safeguards against the unauthorized disclosure of personal information by the provider and by the person, private entity, or government entity seeking disclosure pursuant to the order.

(2) The court may, in its discretion, quash or modify a court order requiring the disclosure of the user's personal information upon a motion made by the user, provider, person, or entity seeking disclosure.

(e) A provider, upon the request of a law enforcement entity, shall take all necessary steps to preserve records and other evidence in its possession of a user's personal information related to the use of a book or part of a book, pending the issuance of a court order or a warrant pursuant to this section or Section 1798.90.05. The provider shall retain the records and evidence for a period of 90 days from the date of the request by the law enforcement entity, which shall be extended for an additional 90-day period upon a renewed request by the law enforcement entity.

(f) Except in an action for a violation of this section, no evidence obtained in violation of this section shall be admissible in any **civil** or administrative proceeding.

(g) (1) Violations of this section shall be subject to the following penalties:

(A) Any provider that knowingly provides personal information about a user to a government entity in violation of this section shall be subject to a **civil** penalty not to exceed five hundred dollars (\$500) for each violation, which shall be paid to the user in a **civil** action brought by the user.

(B) Any provider that knowingly provides personal information about a user to a government entity in violation of this section shall, in addition to the penalty prescribed by subparagraph (A), be subject to a **civil** penalty not to exceed five hundred dollars (\$500) for each violation, which may be assessed and recovered in a **civil** action brought by the Attorney General, by any district attorney or city attorney, or by a city prosecutor in any city having a full-time city prosecutor, in any court of competent jurisdiction.

(2) If an action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city

prosecutor, one-half of the penalty shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(3) The penalties provided by this section are not the exclusive remedy and do not affect any other relief or remedy provided by law.

(4) A **civil** action brought pursuant to this section shall be commenced within two years after the date upon which the claimant first discovered the violation.

(h) An objectively reasonable reliance by the provider on a warrant or court order for the disclosure of personal information of a user, or on any of the enumerated exceptions to the confidentiality of a user's personal information set forth in this section, is a complete defense to any **civil** action for the violation of this section.

(i) (1) Unless disclosure of information pertaining to a particular request or set of requests is specifically prohibited by law, a provider shall prepare a report including all of the following information, to the extent it can be reasonably determined:

(A) The number of federal and state warrants, federal and state grand jury subpoenas, federal and state **civil** and administrative subpoenas, federal and state **civil** and criminal court orders, and requests for information made with the informed consent of the user as described in paragraph (3) of subdivision (c), seeking disclosure of any personal information of a user related to the access or use of a book service or book, received by the provider from January 1 to December 31, inclusive, of the previous year.

(B) The number of disclosures made by the provider pursuant to paragraphs (4) and (5) of subdivision (c) from January 1 to December 31, inclusive, of the previous year.

(C) For each category of demand or disclosure, the provider shall include all of the following information:

(i) The number of times notice of a court order in a criminal, **civil**, or administrative action has been provided by the provider and the date the notice was provided.

(ii) The number of times personal information has been disclosed by the provider.

(iii) The number of times no personal information has been disclosed by the provider.

(iv) The number of times the provider contests the demand.

(v) The number of times the user contests the demand.

(vi) The number of users whose personal information was disclosed by the provider.

(vii) The type of personal information that was disclosed and the number of times that type of personal information was disclosed.

(2) Notwithstanding paragraph (1), a provider is not required to prepare a report pursuant to this subdivision unless it has disclosed personal information related to the access or use of a book service or book of more than 30 total users consisting of users located in this state or users whose location is unknown or of both types of users.

(3) The reporting requirements of this subdivision shall not apply to information disclosed to a government entity that is made by a provider serving a postsecondary educational institution when the provider is required to disclose the information in order to be reimbursed for the sale or rental of a book that was purchased or rented by a student using book vouchers or other financial aid subsidies for books.

(j) Reports prepared pursuant to subdivision (i) shall be made publicly available in an online, searchable format on or before March 1 of each year. If the provider does not have an Internet Web site, the provider shall post the reports prominently on its premises or send the reports to the Office of Privacy Protection on or before March 1 of each year.

(k) On or before March 1 of each year, a provider subject to Section 22575 of the Business and Professions **Code** shall complete one of the following actions:

(1) Create a prominent hyperlink to its latest report prepared pursuant to subdivision (i) in the disclosure section of its privacy policy applicable to its book service.

(2) Post the report prepared pursuant to subdivision (i) in the section of its Internet Web site explaining the way in which user information and privacy issues related to its book service are addressed.

(3) State on its Internet Web site in one of the areas described in paragraphs (1) and (2) that no report prepared pursuant to subdivision (i) is available because the provider is exempt from the reporting requirement pursuant to paragraph (2) of subdivision (i).

(1) Nothing in this section shall otherwise affect the rights of any person under the California Constitution or any other law or be construed as conflicting with the federal Privacy Protection Act of 1980 (42 U.S.C. 2000aa et seq.).

Standard II.C: Student Learning Programs and Services

C. Library and Learning Support Services

Library and other learning support services for students are sufficient to support the institution's instructional programs and intellectual, aesthetic, and cultural activities in whatever format and wherever they are offered. Such services include library services and collections, tutoring, learning centers, computer laboratories, and learning technology development and training. The institution provides access and training to students so that library and other learning support services may be used effectively and efficiently. The institution systematically assesses these services using student learning outcomes, faculty input, and other appropriate measures in order to improve the effectiveness of the services.

1. The institution supports the quality of its instructional programs by providing library and other learning support services that are sufficient in quantity, currency, depth, and variety to facilitate educational offerings, regardless of location or means of delivery.¹

a. Relying on appropriate expertise of faculty, including librarians and other learning support services professionals, the institution selects and maintains educational equipment and materials to support student learning and enhance the achievement of the mission of the institution.

b. The institution provides ongoing instruction for users of library and other learning support services so that students are able to develop skills in information competency.

- c. The institution provides students and personnel responsible for student learning programs and services adequate access to the library and other learning support services, regardless of their location or means of delivery. ¹
 - d. The institution provides effective maintenance and security for its library and other learning support services.
 - e. When the institution relies on or collaborates with other institutions or other sources for library and other learning support services for its instructional programs, it documents that formal agreements exist and that such resources and services are adequate for the institution's intended purposes, are easily accessible, and utilized. The performance of these services is evaluated on a regular basis. The institution takes responsibility for and assures the reliability of all services provided either directly or through contractual arrangement.
- 2.** The institution evaluates library and other learning support services to assure their adequacy in meeting identified student needs. Evaluation of these services provides evidence that they contribute to the achievement of student learning outcomes. The institution uses the results of these evaluations as the basis for improvement.