
San Bernardino Community College District
Board Policy
Chapter 4 – Academic Affairs

**BP 4040 LIBRARY AND OTHER INSTRUCTIONAL SUPPORT
SERVICES**

(Replaces current SBCCD BP 4040)

❖ **From current SBCCD BP 4040 titled Library and Other Instructional Support Services**

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

References: Education Code Section 78100;
Civil Code Section 1798.90;
WASC/ACCJC Accreditation Standard II.C

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **black ink** is from current SBCCD BP 4040 titled Library and Other Instructional Support Services with no adoption date. This document was reviewed by Gloria Fisher & Rebeccah Warren-Marlatt on 3/4/14.

Adopted: No date
Revised:

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

87 government entity, any personal information of a user, except under
88 any of the following circumstances:

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

93 (A) The court issuing the order finds that probable cause exists
94 to believe the personal information requested is relevant evidence to
95 the investigation of an offense and any of the grounds in Section
96 1524 of the Penal **Code** is satisfied.

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

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

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

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

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

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

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

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

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

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

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

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

140 (3) A provider shall disclose the personal information of a user
141 to any person, private entity, or government entity if the user has
142 given his or her informed, affirmative consent to the specific

143 disclosure for a particular purpose.

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

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

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

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

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

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

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

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

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

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

199 the city in which the judgment was entered, and one-half to the
200 treasurer of the county in which the judgment was entered.

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

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

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

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

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

223 (B) The number of disclosures made by the provider pursuant to
224 paragraphs (4) and (5) of subdivision (c) from January 1 to December
225 31, inclusive, of the previous year.

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

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

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

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

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

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

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

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

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

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

253 (j) Reports prepared pursuant to subdivision (i) shall be made
254 publicly available in an online, searchable format on or before March

255 1 of each year. If the provider does not have an Internet Web site,
256 the provider shall post the reports prominently on its premises or
257 send the reports to the Office of Privacy Protection on or before
258 March 1 of each year.

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

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

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

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

272 (l) Nothing in this section shall otherwise affect the rights of
273 any person under the California Constitution or any other law or be
274 construed as conflicting with the federal Privacy Protection Act of
275 1980 (42 U.S.C. 2000aa et seq.).

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278 **Standard II.C: Student Learning Programs and Services**

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280 **C. Library and Learning Support Services**

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

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

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

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

299 c. The institution provides students and personnel responsible for student learning programs
300 and services adequate access to the library and other learning support services, regardless of
301 their location or means of delivery. ¹

302 d. The institution provides effective maintenance and security for its library and other learning
303 support services.

304 e. When the institution relies on or collaborates with other institutions or other sources for
305 library and other learning support services for its instructional programs, it documents that
306 formal agreements exist and that such resources and services

307 are adequate for the institution's intended purposes, are easily accessible, and utilized. The
308 performance of these services is evaluated on a regular basis. The institution takes
309 responsibility for and assures the reliability of all services provided either directly or through
310 contractual arrangement.

311 **2.** The institution evaluates library and other learning support services to assure their adequacy
312 in meeting identified student needs. Evaluation of these services provides evidence that they
313 contribute to the achievement of student learning outcomes. The institution uses the results of
314 these evaluations as the basis for improvement.