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Chapter: Fiscal and Administrative Affairs

Modification No. 004

Subject: **Inspection of Public Records**

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- I. The Board of Trustees recognizes that all persons are entitled to access to information through existing documents regarding the affairs of the College and the official acts of those individuals who act as its trustees and employees.
- II. It is the policy of the Board of Trustees to permit public records to be available for inspection by any person at reasonable times in accordance with the provisions of the Maryland Public Information Act, Title 4 of the State General Provisions Article of the Annotated Code of Maryland.
- III. The President is authorized to establish procedures to implement this policy.

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Board Approval: November 19, 1984; May 16, 2005; June 18, 2012; May 15, 2017.

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Subject: **Inspection of Public Records**

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- I. In order to comply with Board policy and the Maryland Public Information Act, Montgomery College follows the following procedures for the processing of requests for the inspection or copying of public records.
  
- II. Definitions
  - A. "Act" means the Public Information Act, General Provisions Article Sections 4-101 to 4-601, Annotated Code of Maryland.
  - B. "Applicant" means any person that requests to inspect a public record.
  - C. "Copy" means any form of reproduction using a photocopying machine or other reproduction technology, including a paper copy, an electronic copy, a printout or an image.
  - D. "Custodian" means any authorized person employed by the College having physical custody and control of public records or the official custodian.
  - E. "Indigent" means an individual's family household income is less than 50% of the median family income for the State of Maryland as reported in the Federal Register.
  - F. "Metadata" means information, generally not visible when an electronic document is printed, describing the history, tracking, or management of the electronic document, including information about data in the electronic document that describes how, when, and by whom the data is collected, created, accessed, or modified and how the data is formatted.
  - G. "Official Custodian" means the person who is responsible for the maintenance, care and keeping of the public records of the College whether or not that person has physical custody and control of the public record. Unless otherwise specified, the President of the College is the official custodian of the College's records.
  - H. "Person in interest" means and includes the person who is the subject of a record or any representative designated by said person, except that if the subject of the record is under legal disability, the term "person in interest" shall mean and include the parent or duly appointed legal representative.
  - I. "Public record" means the original or any copy of any documentary material made or received by the College in connection with the transaction of public business and is any form including a card, a computerized record, correspondence, a drawing, film or microfilm, a form, a map, a photograph or photostat, a recording or a tape. "Public record" includes a document that lists the salaries of all employees of the College.
  - K. "Reasonable Fee" means a fee bearing a reasonable relationship to recovery of actual costs incurred by the College.

- L. "Sociological Information" shall include the following information:
1. Records about an individual's personal history, family, race, national origin, creed, color, ethnicity, ancestry, religion, sex, pregnancy, sexual orientation, marital status, gender identity or expression, veteran status, genetic information, or physical or mental ability;
  2. Date of birth and age;
  3. Family history, identity of relatives, dependents, emergency contacts or representatives;
  4. Student education records of a deceased student;
  5. Scholarship and financial aid records of individuals or their families;
  6. Credit card and other banking information;
  7. Medical or psychiatric status, condition or history;
  8. Military status or service history;
  9. Social security number;
  10. Alien registration number;
  11. Taxpayer identification number;
  12. Driver's license number;
  13. Background check information;
  14. Applicant information for admission, scholarships, employment or award, including those of applicants who were either not selected/admitted or chose not to matriculate;
  15. Information regarding employment status, including but not limited to records related to an application for employment, appointment, job evaluation, seniority, promotion, demotion, transfer, layoff, termination, disciplinary records and records related to training or professional development;
  16. Transcript information obtained from a high school or other educational institution;
  17. Residency classification for tuition purposes;
  18. Immigration status, including alien registration, taxpayer identification, passport and visa numbers;
  19. Information regarding marital status, domestic partnership, dependents or relatives, including related employment benefits elections;
  20. Health insurance and other benefit information;
  21. Class or employment attendance information;
  22. Any information obtained through employee or student surveys;
  23. Personal addresses, personal phone numbers, personal electronic mail address and personal social media account information;
  24. Internet and other electronic network activity information, including browser history, search history, wireless network location data and information regarding an individual's interaction with an internet website or application;
  25. Residency classification for tuition purposes;
  26. Donation and donor information, such as gift agreements, communications, contact information for individuals who have made charitable donations of goods, services, money or anything else to the College; and
  27. Institutional identification number assigned to each applicant, student or employee (e.g .M#) and identification photograph.
- M. "Working Day" means each day except Saturdays, Sundays and any scheduled College holidays.

III. Applicability

The procedures which follow do not apply to:

- A. College employees' access to their own individual personnel files (see policy and procedures on personnel files).
- B. Access to student records (see policy and procedures on access to student records).
- C. Requests for the inspection of College records which are processed as an ongoing part of the effective administrative management of the College, such as authorized requests for data between College offices and third parties pursuant to written agreements, subpoenas and/or requests processed pursuant to applicable Federal, State or local laws or regulations.
- D. Requests for records which do not exist or for which the College would need to create to satisfy a request.
- E. Records that can accessed on the College website or other online sources. Any College employee may provide such records without employing these procedures.

IV. Who May Request

Any person may request to inspect or copy any public records in the custody and control of the College.

V. Contents of Request

A request to inspect public records shall contain the applicant's name, address and other contact information (phone number, e-mail address, etc.). Requests should sufficiently identify the records being sought and the specific dates or ranges of dates of the documents requested. Requests that are not ascertainable or identifiable with reasonable specificity may be subject to requests for clarification.

VI. Filing the Request

A request to inspect a public record in the custody and control of the College shall be addressed to the custodian of the record or if the custodian of the record is unknown to the applicant, the request may be addressed to the Office of General Counsel. Electronic requests may be sent to [PublicInformationAct@montgomerycollege.edu](mailto:PublicInformationAct@montgomerycollege.edu). Requests made or submitted after 4:30 on a working day, on a weekend, or on a day the College is closed will not be considered received until the next working day.

VII. Time for Response

- A. Custodians and/or other College employees receiving requests for public records shall promptly notify the Office of General Counsel and provide a copy of the request. The Office of General Counsel will review the request with the custodian to coordinate the College's response.
- B. If the custodian determines, after appropriate consultation, to grant a request for

inspection, the requested public records shall be produced for inspection immediately or within a reasonable time period, not to exceed thirty days from the date of receipt of the request, if that period is needed to retrieve the public record and conduct any necessary review.

- C. If the custodian reasonably believes that it will take more than ten working days to produce the public record, the custodian shall indicate in writing or by electronic mail within ten working days after receipt of the request: (1) the amount of time the custodian believes it will take to produce the public record; (2) an estimate of the range of fees that may be charged to comply with the request for public records; and (3) the reason it will take more than ten working days to produce the records.
- D. If the custodian decides, after appropriate consultation, to deny a request for inspection, he/she shall deny the request within thirty days after the request and immediately notify the applicant and provide the applicant, at the time of the denial or within ten working days of denial, with a written statement that gives: (1) the reason for the denial; (2) the statute or regulation under which access is denied; (3) a brief description of the undisclosed records; and (4) notice of the remedies available for review of the denial.
- E. If a requested public record is not in the custody and control of the person to whom written application is made, the person shall notify the applicant of this fact within ten working days of receipt of the request, and, shall also notify the applicant of the name of custodian of the record and the location or possible location of the record, if known. If the requested public record is a College record to be found in another location at the College, the person receiving the initial request shall immediately refer the request to the correct office and so notify the applicant.
- F. Any of the time limits above may be extended with the consent of the applicant for an additional period of up to thirty days and/or for the period of time during which a dispute is pending before the Public Access Ombudsmen.

#### VIII. Notification of Persons Who May Be Affected by Disclosure.

Unless prohibited by law, the College may notify any person who could be adversely affected by disclosure of a record to the applicant that a request for inspection or copying of the record has been made. The College may consider the views of this person before deciding whether to disclose the record to the applicant.

#### IX. Electronic Records

- A. Except as provided in Sections C and D below, the College shall provide an applicant with a copy of the public record in a searchable and analyzable electronic format if:
  - 1. The public record is searchable and analyzable electronic format;
  - 2. The applicant requests a copy of the public record in a searchable and analyzable electronic format; and,
  - 3. The custodian is able to provide a copy of the public record, in whole or in part, in a searchable and analyzable electronic format that does not disclose information that is exempt from disclosure under the Act.

- B. The College shall provide a portion of the public record in a searchable and analyzable electronic format if:
  - 1. Requested by the applicant, and
  - 2. The custodian is able to do so by using the existing functions of the database or software program that contains the searchable and analyzable data.
  
- C. The College is not required to:
  - 1. Create or reconstruct a public record in an electronic format if the public record is not available in an electronic format; or
  - 2. Release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which the record is maintained.
  
- D. The College may remove metadata from an electronic document before providing the electronic record to an applicant by using a software program or function, or by converting the electronic record into a different searchable and analyzable format.

X. Public Records Destroyed or Lost

If the public record requested has been destroyed or lost, the College shall promptly notify the applicant that the public record is not available and explain the reasons why the public record cannot be produced.

XI. Denials

The College may deny inspection or copies of information or records that are confidential by law or otherwise exempt from disclosure under the Maryland Public Information Act, including, but not limited to:

- A. Records that do not exist;
- B. Records where inspection would be contrary to State or federal law;
- C. Records subject to attorney-client privilege;
- D. Library records;
- E. Letters of reference;
- F. Personnel records;
- G. Retirement records;
- H. Investment contracts;
- I. Medical or psychological information;
- J. Sociological information;
- K. Home address or telephone number of an employee;
- L. Confidential commercial and financial information;
- M. Information about the finances of an individual;
- N. Interagency or intra-agency letters or memoranda;
- O. Examination information; and,
- P. Education records containing personal information relating to a student, former student or applicant requested for commercial purposes.

XII. Review

Where an applicant's request to inspect or copy a public record of the College is denied, the applicant may seek judicial review under Section 4-362 of the Act. Alternatively, an applicant may contact the Public Access Ombuds and, if the Ombuds is unable to resolve the matter, may subsequently seek a resolution from the Public Information Act Compliance Board for those matters within the Compliance Board's jurisdiction. See Sections 4-1A-01 et seq. and 4-1B-01 et seq.

XIII. Disclosure Against Public Interest

- A. If in the opinion of the custodian, disclosure of any public record which is otherwise required to be disclosed under the Act would do substantial injury to the public interest, the custodian shall immediately submit to the College's Office of General Counsel, through the appropriate senior vice president, a copy of the request as well as a statement of the grounds on which the custodian believes disclosure would do substantial injury to the public interest.
- B. The Office of General Counsel shall review the request with the appropriate senior vice president and/or President and shall either (1) direct the custodian to grant the request or (2) direct the custodian to temporarily deny the request. If the request is temporarily denied, the Office of General Counsel or designee shall, within ten days of the denial, apply to the Circuit Court of Maryland for Montgomery County for an order permitting the custodian to continue to deny or restrict such disclosure. Notice of the application filed with the Circuit Court shall be served on the applicant in the same manner provided for service of process by the Maryland Rules of Procedure.

XIV. Fees

The fee schedule related to requests to inspect and/or copy public records at the College is as follows.

A. Copies

- 1. The charge for each copy made by a standard printer or photocopying or scanning machine is 25 cents per page. The fee for each copy made otherwise shall be based on the actual cost of reproduction.
- 2. When a person requests that a copy of a record be certified, an additional cost of \$1.00 per page for College certification of a record being a true copy of the original shall be charged.
- 3. A charge will not be made where the total amount of the fee is \$10.00 or less.
- 4. Notwithstanding the above, if the fee for copies or certified copies of any public record of the College is specifically prescribed by a law other than the Act or by another College policy or procedure, the prescribed fee shall be charged.
- 5. If a custodian is unable to copy a public record within the College, the

custodian shall make arrangements for the prompt reproduction of the record at public or private facilities outside the college. The custodian shall either collect from the applicant a fee to cover the actual cost of reproduction or direct the applicant to pay the cost of reproduction directly to the facility making the copy.

6. Before copying a public record of the College, the custodian shall estimate the cost of reproduction and notify the applicant of the estimated cost. The custodian may demand prepayment of any estimated fee before reproducing the record.

**B. Search and Preparation Fees**

1. Except as provided below, the College may charge reasonable fees for time an official or employee of the College spends to search for requested public records, review requested public records for potential disclosure, and/or prepare public records for inspection and copying.
2. The fee for search and preparation time shall be determined by multiplying the employee's salary, prorated to an hourly basis, by the actual time attributable to the search for, review of, and preparation of public records for inspection and copying.
3. The College may not charge any search or preparation fee for the first two hours of employee time that is needed to respond to a request for information.

**C. Mailing Costs**

If the applicant requests that copies be mailed or delivered to the applicant, the College may charge the applicant for the cost of postage or delivery to the applicant.

**D. Waiver or Reduction of Fee**

If the applicant requests the College to waive or reduce any fee charged under these procedures, the custodian may request the Senior Vice President for Administrative and Fiscal Services to determine whether the requested waiver or reduction is in the public interest, or the applicant is indigent and files an affidavit verifying the facts that support a claim of indigency.

**XV. Time of Inspection**

An applicant may inspect any public record of the College that the applicant is entitled to inspect during the normal working hours of the College, unless the College and applicant mutually agree to an alternate date and time when the records will be made available for inspection.

**XVI. Place of Inspection**

The place of inspection shall be the place where the document is located unless the custodian determines that another place of inspection is more suitable and convenient after taking into account the applicant's expressed wish.



XVII. Withdrawal of Request

- A. An applicant may withdraw a request for public records at any time.
- B. A request for public records will be deemed withdrawn if the applicant does not respond within thirty days to a request for clarification or other request from the College.
- C. If fees are assessed in accordance with section XIV above, a request will be deemed withdrawn if the College does not receive payment within thirty days.

XVIII. Interpretation of Procedures

The Office of General Counsel is responsible for the interpretation of these procedures.

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Administrative Approval: November 20, 1984. May 31, 2017; February 22, 2023.