
Chapter: Fiscal and Administrative Affairs

Modification No. 005 3-10-22

Subject: **Inspection of Public Records**

1 I. The Board of Trustees recognizes that all persons are entitled to access to information
2 through existing documents regarding the affairs of the College and the official acts of
3 those individuals who act as its trustees and employees.
4

5 II. It is the policy of the Board of Trustees to permit public records to be available for
6 inspection by any person at reasonable times in accordance with the provisions of the
7 Maryland Public Information Act, Title 4 of the State General Provisions Article of the
8 Annotated Code of Maryland.
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10 I. The President is authorized to establish procedures to implement this policy.
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13 Board Approval: November 19, 1984; May 16, 2005; June 18, 2012; May 15, 2016.

Chapter: Fiscal and Administrative Affairs

Modification No. 002

Subject: **Inspection of Public Records**

- 14 I. In order to comply with Board policy and the Maryland Public Information Act,
15 Montgomery College follows the following procedures for the processing of requests for
16 the inspection or copying of public records.
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- 18 II. Definitions
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- 20 A. "Act" means the Public Information Act, General Provisions Article Sections 4-
21 101 to 4-601, Annotated Code of Maryland.
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- 23 B. "Applicant" means any person that requests to inspect a public record.
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- 25 C. "Copy" means any form of reproduction using a photocopying machine or other
26 reproduction technology, including a paper copy, an electronic copy, a printout or
27 an image.
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- 29 D. "Custodian" means any authorized person employed by the College having
30 physical custody and control of public records or the official custodian.
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- 32 E. "Indigent" means an individual's family household income is less than 50% of the
33 median family income for the State of Maryland as reported in the Federal
34 Register.
35
- 36 F. "Metadata" means information, generally not visible when an electronic document
37 is printed, describing the history, tracking, or management of the electronic
38 document, including information about data in the electronic document that
39 describes how, when, and by whom the data is collected, created, accessed, or
40 modified and how the data is formatted.
41
- 42 G. "Official Custodian" means the person who is responsible for the maintenance,
43 care and keeping of the public records of the College whether or not that person
44 has physical custody and control of the public record. Unless otherwise
45 specified, the President of the College is the official custodian of the College's
46 records.
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- 48 H. "Person in interest" means and includes the person who is the subject of a record
49 or any representative designated by said person, except that if the subject of the
50 record is under legal disability, the term "person in interest" shall mean and
51 include the parent or duly appointed legal representative.
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- 53 I. "Public record" means the original or any copy of any documentary material
54 made or received by the College in connection with the transaction of public
55 business and is any form including a card, a computerized record,
56 correspondence, a drawing, film or microfilm, a form, a map, a photograph or
57 photostat, a recording or a tape. "Public record" includes a document that lists
58 the salaries of all employees of the College.
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- 60 K. "Reasonable Fee" means a fee bearing a reasonable relationship to recovery of
61 actual costs incurred by the College.

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- 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. Driver's license number;
 11. Background check information;
 12. Applicant information for admission, scholarships, employment or award, including those of applicants who were either not selected/admitted or chose not to matriculate;
 13. 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;
 14. Transcript information obtained from a high school or other educational institution;
 15. Residency classification for tuition purposes;
 16. Immigration status, including alien registration, taxpayer identification, passport and visa numbers;
 17. Information regarding marital status, domestic partnership, dependents or relatives, including related employment benefits elections;
 18. Health insurance and other benefit information;
 19. Class or employment attendance information;
 20. Any information obtained through employee or student surveys;
 21. Personal addresses, personal phone numbers, personal electronic mail address and personal social media account information;
 22. 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;
 23. Residency classification for tuition purposes;
 24. 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
 25. 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:

- 115
- 116 A. College employees' access to their own individual personnel files (see policy and
- 117 procedures on personnel files).
- 118
- 119 B. Access to student records (see policy and procedures on access to student
- 120 records).
- 121
- 122 C. Requests for the inspection of College records which are processed as an
- 123 ongoing part of the effective administrative management of the College, such as
- 124 authorized requests for data between College offices and third parties pursuant
- 125 to written agreements, subpoenas and/or requests processed pursuant to
- 126 applicable Federal, State or local laws or regulations.
- 127
- 128 D. Requests for records which do not exist or for which the College would need to
- 129 create to satisfy a request.
- 130
- 131 E. Records that can accessed on the College website or other online sources. Any
- 132 College employee may provide such records without employing these
- 133 procedures.

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135 IV. Who May Request

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

138 of the College.

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140 V. Contents of Request

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142 A request to inspect public records shall contain the applicant's name, address and other

143 contact information (phone number, e-mail address, etc.). Requests should sufficiently

144 identify the records being sought and the specific dates or ranges of dates of the

145 documents requested. Requests that are not ascertainable or identifiable with

146 reasonable specificity may be subject to requests for clarification.

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148 VI. Filing the Request

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150 A request to inspect a public record in the custody and control of the College shall be

151 addressed to the custodian of the record or if the custodian of the record is unknown to

152 the applicant, the request may be addressed to the Office of General Counsel. Electronic

153 requests may be sent to PublicInformationAct@montgomerycollege.edu. Requests made

154 or submitted after 4:30 on a working day, on a weekend, or on a day the College is

155 closed will not be considered received until the next working day.

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157 VII. Time for Response

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- 159 A. Custodians and/or other College employees receiving requests for public records
- 160 shall promptly notify the Office of General Counsel and provide a copy of the
- 161 request. The Office of General Counsel will review the request with the custodian
- 162 to coordinate the College's response.
- 163
- 164 B. If the custodian determines, after appropriate consultation, to grant a request for
- 165 inspection, the requested public records shall be produced for inspection
- 166 immediately or within a reasonable time period, not to exceed thirty days from the
- 167 date of receipt of the request, if that period is needed to retrieve the public record

- 168 and conduct any necessary review.
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170 C. If the custodian reasonably believes that it will take more than ten working days
171 to produce the public record, the custodian shall indicate in writing or by
172 electronic mail within ten working days after receipt of the request: (1) the
173 amount of time the custodian believes it will take to produce the public record;
174 (2) an estimate of the range of fees that may be charged to comply with the
175 request for public records; and (3) the reason it will take more than ten working
176 days to produce the records.
177
178 D. If the custodian decides, after appropriate consultation, to deny a request for
179 inspection, he/she shall deny the request within thirty days after the request and
180 immediately notify the applicant and provide the applicant, at the time of the
181 denial or within ten working days of denial, with a written statement that gives:
182 (1) the reason for the denial; (2) the statute or regulation under which access is
183 denied; (3) a brief description of the undisclosed records; and (4) notice of the
184 remedies available for review of the denial.
185
186 E. If a requested public record is not in the custody and control of the person to
187 whom written application is made, the person shall notify the applicant of this fact
188 within ten working days of receipt of the request, and, shall also notify the
189 applicant of the name of custodian of the record and the location or possible
190 location of the record, if known. If the requested public record is a College record
191 to be found in another location at the College, the person receiving the initial
192 request shall immediately refer the request to the correct office and so notify the
193 applicant.
194
195 F. Any of the time limits above may be extended with the consent of the applicant
196 for an additional period of up to thirty days and/or for the period of time during
197 which a dispute is pending before the Public Access Ombudsmen.
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199 VIII. Notification of Persons Who May Be Affected by Disclosure.

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

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208 A. Except as provided in Sections C and D below, the College shall provide an
209 applicant with a copy of the public record in a searchable and analyzable
210 electronic format if:
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212 1. The public record is searchable and analyzable electronic format;
213 2. The applicant requests a copy of the public record in a searchable and
214 analyzable electronic format; and,
215 3. The custodian is able to provide a copy of the public record, in whole or
216 in part, in a searchable and analyzable electronic format that does not
217 disclose information that is exempt from disclosure under the Act.
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219 B. The College shall provide a portion of the public record in a searchable and
220 analyzable electronic format if:

- 221
- 222 1. Requested by the applicant, and
- 223 2. The custodian is able to do so by using the existing functions of the
- 224 database or software program that contains the searchable and
- 225 analyzable data.
- 226
- 227 C. The College is not required to:
- 228
- 229 1. Create or reconstruct a public record in an electronic format if the public
- 230 record is not available in an electronic format; or
- 231 2. Release an electronic record in a format that would jeopardize or
- 232 compromise the security or integrity of the original record or of any
- 233 proprietary software in which the record is maintained.
- 234
- 235 D. The College may remove metadata from an electronic document before providing
- 236 the electronic record to an applicant by using a software program or function, or
- 237 by converting the electronic record into a different searchable and analyzable
- 238 format.
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240 X. Public Records Destroyed or Lost

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242 If the public record requested has been destroyed or lost, the College shall promptly

243 notify the applicant that the public record is not available and explain the reasons why the

244 public record cannot be produced.

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246 XI. Denials

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248 The College may deny inspection or copies of information or records that are confidential

249 by law or otherwise exempt from disclosure under the Maryland Public Information Act,

250 including, but not limited to:

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

271 Where an applicant's request to inspect or copy a public record of the College is denied,

272 the applicant may seek judicial review under Section 4-362 of the Act. Alternatively, an
273 applicant may contact the Public Access Ombuds and, if the Ombuds is unable to resolve
274 the matter, may subsequently seek a resolution from the Public Information Act
275 Compliance Board for those matters within the Compliance Board’s jurisdiction. See
276 Sections 4-1A-01 et seq. and 4-1B-01 et seq.

277 XIII. Disclosure Against Public Interest

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- 279 A. If in the opinion of the custodian, disclosure of any public record which is
280 otherwise required to be disclosed under the Act would do substantial injury to
281 the public interest, the custodian shall immediately submit to the College’s Office
282 of General Counsel, through the appropriate senior vice president, a copy of the
283 request as well as a statement of the grounds on which the custodian believes
284 disclosure would do substantial injury to the public interest.
- 285
- 286 B. The Office of General Counsel shall review the request with the appropriate
287 senior vice president and/or President and shall either (1) direct the custodian to
288 grant the request or (2) direct the custodian to temporarily deny the request. If
289 the request is temporarily denied, the Office of General counsel or designee
290 shall, within ten days of the denial, apply to the Circuit Court of Maryland for
291 Montgomery County for an order permitting the custodian to continue to deny or
292 restrict such disclosure. Notice of the application filed with the Circuit Court shall
293 be served on the applicant in the same manner provided for service of process
294 by the Maryland Rules of Procedure.

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296 XIV. Fees

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

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- 301 A. Copies
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- 303 1. The charge for each copy made by a standard printer or photocopying or
304 scanning machine is 25 cents per page. The fee for each copy made
305 otherwise shall be based on the actual cost of reproduction.
- 306
- 307 2. When a person requests that a copy of a record be certified, an
308 additional cost of \$1.00 per page for College certification of a record
309 being a true copy of the original shall be charged.
- 310
- 311 3. A charge will not be made where the total amount of the fee is \$10.00 or
312 less.
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- 314 4. Notwithstanding the above, if the fee for copies or certified copies of any
315 public record of the College is specifically prescribed by a law other than
316 the Act or by another College policy or procedure, the prescribed fee
317 shall be charged.
- 318
- 319 5. If a custodian is unable to copy a public record within the College, the
320 custodian shall make arrangements for the prompt reproduction of the
321 record at public or private facilities outside the college. The custodian
322 shall either collect from the applicant a fee to cover the actual cost of

323 reproduction or direct the applicant to pay the cost of reproduction
324 directly to the facility making the copy.

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

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331 B. Search and Preparation Fees

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333 1. Except as provided below, the College may charge reasonable fees for
334 time an official or employee of the College spends to search for
335 requested public records, review requested public records for potential
336 disclosure, and/or prepare public records for inspection and copying.

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338 2. The fee for search and preparation time shall be determined by
339 multiplying the employee's salary, prorated to an hourly basis, by the
340 actual time attributable to the search for, review of, and preparation of
341 public records for inspection and copying.

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343 3. The College may not charge any search or preparation fee for the first
344 two hours of employee time that is needed to respond to a request for
345 information.

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347 C. Mailing Costs

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

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353 D. Waiver or Reduction of Fee

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

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361 XV. Time of Inspection

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

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368 XVI. Place of Inspection

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

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374 XVII. Withdrawal of Request

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- A. An applicant may withdraw a request for public records at any time.
- B. A request for public records will 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.

Administrative Approval: November 20, 1984. May 31, 2017.