Chapter: Fiscal and Administrative Affairs Modification No. 003

Subject: Records Management

I. General

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, in accordance with the provisions of the Public Information Act of the State of Maryland.

I. <u>Inspection and Copies</u>

- A. It is the policy of the Board of Trustees to permit public records as defined by state law, to be available for inspection by any person at reasonable times in accordance with State law.
- B. Copies of requested documents should be made available at such costs that reimburse the College for its expenses incurred in providing the documents, in accordance with procedures promulgated by the president and subject to such exceptions as the president or the president's delegate may deem appropriate. In the absence of such procedures addressing costs to be charged, the costs are \$.10 per copy or in the event that an outside vendor is used for the copies, the charge to the College by that outside vendor.

II. Retention

The Board of Trustees authorizes the President to establish a Records Retention Schedule for the College that meets requirements for maintaining records for purposes of legal actions or defense, administrative and historical needs, educational records for students and personnel records for employees, as well as records required for compliance related matters. College records that have fulfilled their business purpose and usefulness should be subject to systematic disposal in accordance with the schedule and procedures.

III. The President is authorized to establish procedures to implement this policy.

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

Chapter: Fiscal and Administrative Affairs Modification No. <u>002</u>

Subject: Records Management

I. Definitions

A. "Applicant" means any person requesting disclosure of public records.

- B. "Custodian" means any authorized person employed by the College having personal custody and control of public records or the official custodian.
- C. "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.
- D. "Person" means and includes any natural person, corporation, partnership, firm, association or governmental agency.
- E. "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 guardian.
- F. "Personal Record" means and includes any public record that contains information pertaining to a natural person whose identity can be ascertained therefrom with reasonable certainty either by name, address, number, description, finger or voice print, picture or any other identifying factor or factors.
- G. "Public records" means any paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map, drawing or other written document, regardless of physical form or characteristics, that is made or received by the College. All such records are deemed to be the property of Montgomery College. "Public records" includes all copies that have been made by the office in connection with the transaction of public business and includes the salaries of all employees of the College.
- H. "Working Day" means each day except Saturdays, Sundays and any scheduled College holidays.

II. 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 or requests processed pursuant to applicable Federal, State or local laws or regulations.

III. Who May Request

A person may request to inspect or copy any public record that is in the custody and control of the College.

IV. Necessity for Written Request

All requests for inspection of public records shall be in writing.

V. Contents of Written Request

A written request shall contain the applicant's name and address, shall be signed by the applicant, and shall reasonably identify by brief description the record sought. Requests shall be as specific as possible. Requests that are not ascertainable or identifiable with reasonable specificity may be subject to requests for clarification.

VI. Filing the Request

A written request for a record in the custody and control of the College shall be addressed to the custodian of the record. If the custodian of the record is unknown to the applicant, the request may be addressed to the General Counsel.

VII. Response to Request

- A. Within thirty (30) calendar days of the receipt of the written request, the custodian shall respond to the written request for a record.
- B. Each provost shall designate an individual who shall review with the custodian all requests to inspect records maintained in the provost's unit. The President shall designate an administrator to review requests to inspect all other College records.
- C. If the custodian determines, after appropriate consultation, that the records are subject to inspection by the public, the custodian shall grant the request and produce the record within such reasonable time, not to exceed thirty days from the date of receipt of the request, as may be required to retrieve the information.
- D. If the custodian decides to deny the person access to the record or any portion of it, after consultation with the General Counsel, he/she shall immediately notify the applicant and provide the applicant, within ten days of denial, with a written statement of the grounds for the denial which shall include (1) the reason for the denial; (2) the statute or regulation under which access is denied; and (3) all remedies for review of the denial under State law.
- E. Any reasonably severable portion of a record shall be provided to the applicant after deletion of those portions which may be withheld from disclosure.
- F. With the consent of the applicant, the time period specified for response may be extended for an additional time period not to exceed thirty days.

G. The College is not required to provide information in a format other than that which is in fact the existing record. The College is under no obligation to create records to satisfy a request.

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

Unless prohibited by law, the custodian 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 custodian may consider the views of this person before deciding whether to disclose the record to the applicant.

IX. Records Not in the Custody and Control of the Person Receiving the Request

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. If the requested public record is not a College record, the person receiving the initial request shall also notify the applicant of the 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.

X. Records Destroyed or Lost

If the public record requested has been destroyed or lost, the custodian to whom the application is made shall notify the applicant of this fact within thirty days of the request and shall explain in the response the reasons or circumstances which led to the custodian's inability to produce the record.

XI. <u>Correction or Amendment of Personal Records</u>

- A. <u>Written Request for Amendment or Correction</u>: A person in interest may request in writing to correct or amend any personal records which that person believes are inaccurate or incomplete and which the person has a right to inspect. The written request filed must contain at least the following:
 - 1. The precise correction or amendment requested and
 - 2. The reason for the request.
- B. <u>Response</u>: Within thirty days after receiving a request for amendment or correction of a record, the custodian shall
 - 1. Make the requested correction or amendment and inform the person in interest, in writing, of that action, or
 - 2. Inform the person in interest, in writing, that
 - the College refuses to make the requested amendment or correction and
 - the reason for the refusal.

- C. <u>Right to File Statement</u>: A person in interest whose request for an amendment or correction is refused, may file with the College a concise statement as follows:
 - The statement shall contain the reasons for the requested amendment or correction.
 - 2. The statement shall contain the reasons for disagreement with the College's refusal to make the correction or amendment.
 - 3. The statement shall not exceed five pages.
- D. <u>Subsequent Disclosure</u>: When the custodian subsequently discloses to a third party information from personal records about which a statement has been filed, the custodian shall furnish a copy of the statement to the third party.

XII. Review of the Denial

Except in cases of temporary denials, any applicant denied the right to inspect, or a requested correction or amendment or the right to file a statement, may file an appropriate action in circuit court under the State Government Article of the <u>Annotated</u> Code of Maryland.

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 State Government Article of the Annotated Code of Maryland would do substantial injury to the public interest, the custodian shall immediately notify the College's General Counsel.
- B. Within ten days of receipt of the request, the custodian shall submit, through the appropriate 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.
- C. The General Counsel shall review the request with the President and shall either (1) direct the custodian to grant the request or (2) direct the custodian to temporarily deny the request and, within ten days of 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

- A. <u>Copies</u>: The fee schedule for the College is as follows:
 - 1. The charge for each copy is 25 cents per page when reproduction can be made on a photocopying machine within the College office. When records are not susceptible to photocopying, for example, punch cards, magnetic tapes, blueprints, and microfilm, the charge for reproducing the record will be determined on a case-by-case basis at actual cost. For more than twenty-five pages, a charge of \$10.00 per hour (staff time in

- copying documents) will be added to the per copy cost when reproduction can be made by photocopying machine within the College.
- 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.
- A charge will not be made where the total amount of the fee is \$1.00 or less.
- 4. Notwithstanding the above, if the fee for copies, printouts, photographs, or certified copies of any record are specifically prescribed by law other than the Maryland Public Information Act or by another College policy or procedure, the prescribed fee shall be charged.
- 5. If a custodian is unable to copy a 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 reproducing a record, the custodian shall estimate the cost of reproduction and obtain agreement of the applicant that the cost shall be paid. The custodian may demand prepayment of any estimated fee before reproducing the record.
- 7. If the applicant requests the custodian to waive or reduce any fee charged for copying, the custodian may request the appropriate vice president to waive or reduce the fee after determining that the waiver or reduction is in the public interest.

B. Search and Preparation Fees

- Except as provided below, the official custodian may charge reasonable fees for an official's or employee's time expended searching for the requested records or for any time expended preparing records for inspection and copying.
- 2. The custodian may not charge any search or preparation fee for the first two hours of official or employee time that is needed to respond to a request for information.
- If the applicant requests the custodian to waive or reduce any fee charged for search and/or preparation, the custodian may request the appropriate vice president to waive or reduce the fee after determining that the waiver or reduction is in the public interest.

C. Mailing Costs

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

XV. <u>Time of Inspection</u>

Generally, an applicant who is granted access to a record may inspect the record during the normal working hours of the College. However, to prevent unnecessary interference with the regular discharge of the duties of officials of the College, the notice granting access may specify a date and hour when the records will be available.

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. <u>Interpretation of Procedures</u>

The General Counsel is response	onsible for the inter	pretation of these	procedures.
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Administrative Approval: November 20, 1984.