

Policy Implementing New Jersey Open Public Records Act

Section 1. Purpose

This administrative policy is adopted to assure compliance by the County College of Morris with the applicable provisions of the NEW JERSEY PUBLIC ACCESS TO GOVERNMENT RECORDS ACT (the "Act"), which Act will become effective on July 8, 2002. This policy evidences the commitment of the College to make government records, as defined in the Act, readily accessible for inspection, copying, or examination, while safeguarding from public access, proprietary or personal information entrusted to the College with the reasonable expectation of the furnishing party that the College will treat the information as confidential and or private.

Section 2. Definitions

Where used in this policy terms defined in the Act shall have the same meaning as that set forth in the Act.

Inter-agency and intra-College office advisory, consultative, or deliberative materials are not governed by this policy as these materials are excluded under the Act from the definition of "governmental records".

Section 3. Government Records Custodian

The College has established the position of Government Records Custodian (the "Custodian") to discharge the responsibilities and duties imposed upon such position by the Act and to assure compliance of the College with the Act.

Any officer or employee of the College who receives a request for access to records or information falling within, or claimed to fall within, the definition of government records under Act shall forward the request to the Custodian or direct the requestor to the Custodian if an oral request is made.

The Custodian shall make the initial determination of whether access should be granted or denied. The responsibility of the Custodian to grant or deny access shall include making the initial determination whether:

- a. the information requested is exempt from public access or excluded from the definition of government record;
- b. disclosure would otherwise violate proprietary rights or individual privacy rights recognized by law;
- c. the information requested pertains to an investigation in progress and disclosure would be inimical to the public interest; or
- d. disclosure would substantially disrupt College operations.

In making these determinations the Custodian may seek the advice of legal counsel for the College.

If the Custodian determines that part of a particular record is exempt from public access, the Custodian shall delete or excise from a copy of the record that portion which the Custodian determines to be exempt from access and shall permit access to the remainder of the record.

All complaints appealing the decision of the Custodian or requesting mediation shall be forwarded to the Custodian who shall participate in proceedings instituted under the Act, before the Government Records Council or the Superior Court.

Section 4. Exempt Records

Nothing in this policy is intended to require physical transfer or relocation of College documents that are excluded from the definition of government records and not the subject of a specific production request made under the Act (“Exempt Records”). The College administration shall retain the authority to determine the manner for collection, custody, maintenance, storage and release of Exempt Records generated or received by the College so that the same are readily available for appropriate College use and updating. Requests for access to the following categories of Exempt Records shall be referred to the College administrator indicated:

- a. Request from or on behalf of a current or former student for access to his/her records shall be referred to the Coordinator of Student Records.
- b. Request from or on behalf of a current or former employee for access to personnel records of the employee shall be referred to the Director of Human Resources and Labor Relations.
- c. Requests from bargaining unit representatives pertaining to grievances or collective negotiations shall be referred to the Director of Human Resources and Labor Relations.
- d. Requests from federal, state, county, or local governmental officials or agencies shall be referred to the College administrator responsible for legal compliance with matters within the jurisdiction of the requesting governmental authority.
- e. Requests from College insurance underwriters or risk management consultants shall be referred to the College administrator who has custody or knowledge of the information requested by insurance underwriters or risk management consultants.
- f. Requests from prospective bidders, or from current or prior vendors or contractors for information regarding the purchasing by the College of services or materials shall be referred to the Manager of Purchasing.
- g. Requests from professional consultants retained by the College shall be referred to the College administrator responsible for responding to the requesting consultant.

Section 5. Procedure for Requesting Government Record.

Government records not exempt from public access, may be inspected, examined, and copied during regular business hours at the office of the Government Records Custodian.

The Government Record Request Form (GRR) utilized for requests made under the Act will be in compliance with the template provided on the Government Records Council website. The GRR may be hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the Custodian. Upon receipt of the GRR the Custodian shall promptly respond indicating whether the record will be made available, when the record will be available, and the fees to be charged. If the Custodian is unable to comply with a request for access, or is unable to produce the information within the applicable time specified in the Act, the Custodian shall indicate the specific basis therefore on the GRR form and promptly return the GRR to the requestor.

If the College does not maintain the record in the medium requested, the Custodian shall either convert the record to the medium requested or provide a copy in some other meaningful medium.

Section 6. Reproduction Fees and Special Service Charges

Copies of government records may be purchased upon payment of the fee prescribed by statute.

If the Custodian determines that the requested record cannot be reproduced by ordinary copy equipment in ordinary business size and format and the actual costs of materials and supplies used to duplicate the record exceeds the Reproduction Fee, the Custodian shall charge the actual costs of materials and supplies as the Reproduction Fee.

In addition to the Reproduction Fee, a Special Service Charge shall be imposed whenever the Custodian determines that (a) an extraordinary expenditure of time and effort is required to accommodate the request because the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size, or (b) the requested information or medium is not routinely used, developed or maintained by the College and reproduction requires a substantial amount of manipulation or programming of information technology.

The Special Service Charge shall be reasonable and based on the direct costs actually incurred by the College or attributable to the College including labor costs of personnel providing programming, clerical, and supervisory assistance required, or both, and the costs for any extensive use of information technology. The requestor shall be advised in advance of the amount of the Special Service Charge. Prior to authorizing the record reproduction or transmission the requestor may notify the Custodian of an objection to the amount of the Special Service Charge. The Custodian shall promptly review the objection and advise the requestor in writing whether any adjustment will be made to the Special Service Charge.

The requestor shall be required to make payment of the Reproduction Fee and any Special Service Charge prior to release or transmission of the record. Where documents are sought through an anonymous request and the Custodian estimates that costs and special charges for reproducing documents will exceed \$5 the Custodian shall require a deposit of the estimated Reproduction Fee and Special Service Charge in excess of \$5.

Section 7. Compliance Monitoring

In order to monitor compliance with the Act, the Custodian shall:

- a. maintain a log of access requests made under the Act and responses;
- b. develop procedures to periodically review compliance; and
- c. develop methods of identifying, segregating and safeguarding information which is deemed under the Act to be confidential, private, proprietary and exempt from disclosure.

STATEMENT OF RIGHT OF ACCESS TO GOVERNMENT RECORDS OF THE COLLEGE AND THE RIGHT TO APPEAL A DENIAL OF ACCESS

The New Jersey Public Access To Government Records Act N.J.S.A. 47:1A-1 et. seq. (the “Act”) governs the right of members of the public to access government records. The Act defines government records and sets forth certain types of records and information that may not be disclosed or accessed.

Requests for government records may be made anonymously.

Upon payment of the applicable fee, the College is required to make government records available within the following time periods:

Immediate access will be provided to budgets, bills, vouchers, contracts, including collective negotiations agreements, individual employment contracts, and public employee salary and overtime information. Immediate access will be provided as soon as reasonably possible following receipt of the request if the record is not being used and is not in archive storage.

Not later than seven (7) business days after receiving the records request access will be granted or denied to all other government records provided record is currently available, not in use and not in storage or archived. Failure of the Government Records Custodian to respond within seven business days after receiving a request is deemed a denial, unless the requestor has elected not to provide a name, address or telephone number, or other means of contacting the requestor, in which case the Government Records Custodian shall not be required to respond until the requestor reappears before the Custodian seeking a response to the original request.

The requestor is entitled to be advised in advance of the estimated amount of fees and charges to be imposed by the College for the reproduction costs and other special services requested.

Right of Appeal. A person who is denied access to a government record by the custodian of the record at the option of the requestor may institute a proceeding to challenge the custodian’s decision by (1) filing a complaint with the Government Records Council, PO Box 800, Trenton, NJ 08625-0800 or (2) by filing an action in the Superior Court, Morris County Courthouse, Morristown, New Jersey.

An informational pamphlet produced by the Government Records Council which explains the right of the public to access government records and the methods for resolving disputes regarding access, is available at the college office of the Government Records Custodian. Assistance may also be obtained by calling the toll-free helpline of the Government Records Council or by logging on to that agency’s informational website (www.state.nj.us/grc).