Allegany College of Maryland

PUBLIC INFORMATION ACT POLICY

[Policy mandated by state law]
Approved by Exec. Council 3/18/09
Approved by College Advisory Council 3/25/09
Approved by Professional College Staff 5/13/09
Approved by Board of Trustees 6/15/09
Revised 2020
Approved by Board of Trustees 08/17/20
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Background

As a publicly-funded institution, Allegany College of Maryland is a responsible steward of taxpayer dollars and recognizes its obligation to comply with numerous state laws, policies, and procedures including the Maryland Public Information Act. This act identifies what constitutes public records, who has access to them, under what circumstances a public entity must provide access to the records, and under what circumstances a public entity may deny access to the records. Allegany College of Maryland adopts this Public Information Policy to ensure its compliance with both the letter and the spirit of the law.

POLICY

I. Statement of Principle

Allegany College of Maryland welcomes inquiries for information from any person, group, organization, business, or entity. Allegany College of Maryland will provide the requested information (or means of access to the requested information) where such disclosure is mandated by law, does not violate other laws, is properly made, and is capable of being disclosed. Requests may be denied pursuant to relevant federal, state, and local laws and/or regulations. Requests may be denied pursuant to Allegany College of Maryland policy and/or the advice of legal counsel. Allegany College of Maryland will respond to inquiries within a reasonable period of time and at minimal or no cost to the applicant.

II. Scope of Policy

Allegany College of Maryland's Public Information Act Policy applies to all records, data, information, documents, reports, and the like which are maintained by the College in furtherance of its institutional purpose in the regular course of business unless the item(s) sought satisfy an identified exception. See the Maryland Public Information Act Manual for the law (Title 4 of the General Provisions Article ("GP")) and its application.
http://www.marylandattorneygeneral.gov/OpenGov%20Documents/PIA_manual_printable.pdf

The policy applies only to records, data, information, documents, reports, etc. which the College possesses; the College is not required to create a record, data, information, document, report, etc. in order to satisfy a request.

Private property of an employee or student is not covered by this policy.
Private communications of an employee or student is not covered by this policy.
Personal records of an employee or student is not covered by this policy.

III. Public Information Act Officer

Allegany College of Maryland's Public Information Act Officer (hereinafter referred to as "Officer") shall be the Dean of Student & Legal Affairs unless otherwise designated by the College President. The College shall make publicly available the Officer's name and contact information in appropriate publications, on the College's website, and/or on the request form. The contact information shall be updated annually and provided to the Office of the Maryland Attorney General.

The Officer shall accept, review, and manage all requests including determining if the request is approved, assigning compliance with the approval, communicating with the applicant, and assessing fees. The Officer shall also track requests and submit any reports required by the State of Maryland.

IV. Making Requests

Individuals/entities, hereinafter referred to as "applicants" for consistency with Maryland law, who seek information/data/records maintained by Allegany College of Maryland shall first determine if the information is available via existing publications, the College's website, and/or other sources readily available to the public. If the information is not thusly available, the applicant shall then submit a written request to the Officer or his/her designee. A request form or other formal submission may be required. The request shall sufficiently describe the information sought to enable the College to efficiently respond to the request. Such requests may be required to be submitted via first class mail consistent with Maryland law.

Any College employee who receives a request shall promptly forward the request to the Officer.

V. Responding to Requests

All requests shall be forwarded to the Officer or designee. Upon receipt, the request will be dated and assessed to verify that the information is not readily available via an existing College publication, website, etc. and whether the information can be provided pursuant to relevant laws, regulations, and/or College policy.

Requests for records may be denied if:

- the information is protected by laws and/or regulations;
- the information is protected by legally recognized confidentiality/privilege;
- the information is protected as personally identifiable information (PII);
- the information constitutes intra-college communications;
- the information is related to an investigation including but not limited to student discipline, employee discipline, and/or Title IX;
- the request seeks information protected by ADA/504;
- the information's release creates a foreseeable and likely safety risk for the College or any person;
- the information's release causes substantial injury to the public interest;
- the request is vague or item(s) is non-existent
- the request is contrary to an order of a court of record; or
- ACM's legal counsel issues written advisory against release of the information.

No requests shall be approved if the information is to be used for commercial purposes; the Officer may determine from the request or other indicia if the information is to be used for commercial purposes.

If the Officer has any question as to whether the information can be provided, s/he shall consult the appropriate official who could be a College official and/or external legal counsel when necessary.

If the information can be provided, see Provision VI below.

If the information cannot be provided, see Provision VII below.

If the Officer is unclear about any part of the request, s/he shall contact the applicant for clarification regarding the nature of the request. If the request is not adequately clarified, the Officer may deny the request pursuant to Provision VI below.

The Officer shall provide an initial response to the applicant within ten (10) business days and a final response within thirty (30) business days. If the request cannot be processed within this time period, the Officer shall notify the applicant within ten (10) days of the request and shall include the reason for the delay, how much time will be needed, and an estimate of any fees to be charged. All requests must be processed within thirty (30) days

VI. Providing Records

Upon determining that the request can be met under this policy, the Officer shall either (a) comply with the request if s/he is the custodian *or* (b) forward the request to the appropriate College official deemed to be the custodian of the information. The custodian will determine the format and method for providing records. The custodian will ensure the requested information is provided (or otherwise made available to the applicant) to the applicant. The Officer shall be notified when the request has been satisfied by the custodian.

In complying with the request, the custodian shall ensure that no extraneous and/or exempt information is provided/made available. Redaction is permitted and may be necessary as dictated by the content of the records.

VII. Denying Records

Upon determining that the request cannot be met under this policy, the Officer shall promptly notify the applicant (no later than thirty (30) days after receiving the request). Notice shall be in writing. The Officer shall note the reason for the denial.

VIII. Appealing Denial of Records

When an applicant's request is denied by the Officer, the applicant may appeal the denial by submitting a letter detailing the specific reason (and citing any relevant authority) to the Officer within thirty (30) days of the denial. Upon receipt, the request and appeal shall be forwarded by the Officer to the College President. The President shall review the original request, the Officer's reason for denying the request, and the applicant's reason(s) for believing the denial was in error. The President shall consult with appropriate Vice President, other College official(s), and/or legal counsel before responding to the appealed request. This final decision (including compliance with the request if the President determines that the denial was in error) shall be made within thirty (30) days and shall be in writing.

If the College's final decision is to deny the request, the applicant may contact the State of Maryland Office of the Public Access Ombudsman for mediation.

IX. Fees

Allegany College of Maryland may charge fees to process a request. For any information provided in a standard format, the College may charge the actual cost of searching for, preparing, and producing a public record; for a customized format selected by the applicant, the College may charge a reasonable fee to search for, prepare, and reproduce a record.

Fees may include (and are not limited to) employee time, copying/printing costs, disc/drive costs, and attorney fees. Employee time will be calculated based upon an hourly rate of pay for the employee(s) who work on the request. Fees will not be charged, however, for the first two hours spent gathering materials or preparation time. If the applicant disputes a fee assessed by the College that is greater than the statutory amount of $350.00, the applicant may contact the Public Information Act Compliance Board.

Costs incurred shall be identified at the time of billing. Payment in full is due by the applicant within thirty (30) days.

A applicant may ask for a total or partial waiver of fees if (1) the applicant is indigent, or (2) the College determines that a waiver would be in the public interest. A applicant is considered indigent if his or her family household income is less than 50% of the median family income for the state; to obtain a waiver, the applicant must submit an affidavit of indigence. To determine whether a waiver is in the public interest, the official custodian must consider not only the ability of the applicant to pay, but also other relevant factors.