Monroe Community College
STATE UNIVERSITY OF NEW YORK

2.20P Freedom of Information Law Procedure

Category: Administration

Name of Responsible Office: Institutional Compliance & Internal Audit

Title of Responsible Executive: Institutional Compliance Officer & Internal Auditor

Date Established: August 12, 2019

Date Last Approved: August 22, 2022

Description of Process

The College's Freedom of Information Law procedure follows parameters and rules set forth in New York State Freedom of Information Law (NYSFOIL) (Public Officers Law §§ 84–90). The details presented below convey the most relevant aspects of the process, but are not a comprehensive or verbatim representation of the law. The law can be found 2023 Committee on Open Government Annual Report.

Requests for Records

All requests for records must be made in writing and sent to the College's Records Access Officer. MCC's Records Access Officer is:

Brenda Ronan (foilofficer@monroecc.edu)
Institutional Compliance Officer and Internal Auditor
Monroe Community College
Building: 1, Room: 313D
1000 E. Henrietta Road
Rochester, NY 14623
(585) 292-2158

The requester may use the College's Application for Access to Records form, which is available on MCC records request webpage.

Requests for records sent via electronic mail shall be responded to via electronic mail, unless the requestor indicates a preference for a response in some other form.

A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.

If records are available online, the requester will be informed that the records are accessible via the Internet and will be provided with reasonable instruction on finding them. The College will not otherwise provide a record that is already available in the public domain.

NYSFOIL does not require the College to create a record in response to a request.

The College will respond, in writing, within five business days of receipt of a request by:

i. informing the requester that the request, in whole or in part, does not reasonably describe the records sought, and including direction, to the extent possible, that would enable the requester to reasonably describe the records;

ii. granting or denying access to records in whole or in part; or

iii. acknowledging receipt of the request, including an approximate date when the request will be granted or denied, in whole or in part:

   a. That approximate date shall be reasonable under the circumstances of the request (e.g., the extent of redaction and/or consultation that will be necessary to fulfill the request, Freedom of Information Law Procedure the complexity of the request, etc.) and workload, including the number of other outstanding FOIL requests.

   b. Generally, the selected date shall not be more than 20 business days after the date of the acknowledgment. However, if it is known that circumstances prevent disclosure within 20 business days, the College will indicate the reason for its inability to grant the request within that time and will specify a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.

Denial of Access to Records

The Freedom of Information Law presumes all records to be public, except that an agency may deny access to records or portions thereof that:

i. are specifically exempted from disclosure by state or federal statute (e.g. Family Educational Rights and Privacy Act, attorney-client privilege)

ii. if disclosed would constitute an unwarranted invasion of personal privacy

iii. if disclosed would impair present or imminent contract awards or collective bargaining negotiations

iv. are trade secrets or are submitted to an agency by a commercial enterprise and which, if disclosed, would cause substantial injury to the enterprise's competitive position

v. are compiled for law enforcement purposes and which, if disclosed, would negatively impact an investigation or judicial proceeding

vi. if disclosed would endanger the life or safety of any person

vii. are inter-agency or intra-agency materials, except for:

   a. statistical or factual tabulations or data

   b. instructions to staff that affect the public;

   c. final agency policy or determinations; or

   d. external audits.

viii. are exam questions or answers which are requested prior to the administration of the exam; or

ix. if disclosed, would jeopardize the capacity of an agency or other entity to guarantee the security of its assets.

(The preceding list is a summary of relevant points within Public Officers Law, Article 6, Section 87, 2, a-i. Please see the law for a complete description.)

MCC may deny access to records for the reasons stated above.

In the case of records involving potential trade secrets or proprietary information of commercial enterprises, the College will inform the commercial enterprise of the NYSFOIL request and provide the commercial enterprise with an opportunity to object to the release of records. While the College

provides the opportunity for objections, the College reserves the right to disclose records if college officials believe that the College is mandated by law to do so.

Denial of access to records shall be in writing, stating the reason for denial and advising the requester of the right to appeal to the FOIL appeals officer, who shall be identified by name, title, business street address, and business e-mail address. Appeals must be made in writing within 30 days.

MCC's FOIL appeals officer is:

Dr. Craig M. Ross (cross13@monroecc.edu)
Chief Financial Officer and Vice President, Administrative Services
Monroe Community College
1000 E. Henrietta Road Rochester, NY 14623

The MCC appeals officer shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government Department of State
One Commerce Plaza, Suite 650
99 Washington Avenue Albany, NY 12231

Implied Denial

Failure by the Records Access Officer to comply with the time limitations described above shall constitute a denial of access.

Fees

MCC charges for copies of records, except those that can be provided to the requestor electronically, when no redaction is required. The fee for copies is $0.25/page or the actual cost of the storage device necessary for providing the record (e.g. a USB drive).

The process of redaction requires the creation of a copy in order to preserve the original document. As such, the $0.25/page fee applies.

MCC may require that fees for copying or reproducing a record be paid in advance of the preparation of such copy. Payment of all fees is due prior to the release of records.

No fee is charged for the inspection of records, unless redaction is required.

The fees that MCC may otherwise charge for a copy of any other record are based on the actual cost of reproduction and may include only the following:

i. an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and
ii. the actual cost of the storage devices or media provided to the person making the request in complying with such request; or
iii. the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.

Forms

- Application for Access to Records

Contact Information

Brenda Ronan (foilofficer@monroecc.edu)
Institutional Compliance Officer and Internal Auditor
Monroe Community College
Building: 1, Room: 313D
1000 E. Henrietta Road
Rochester, NY 14623
(585) 292-2158