

PROCEDURES MEMORANDUM

TO: MCC Staff

FROM: Office of the President

SUBJECT: Access to College Public Records, including tape recordings of Board of Governors Meetings

DATE: May 1, 2014

PURPOSE: To establish consistent process for the public to access public records in possession of the College

SCOPE: All public records held at the College. Reference Board Policy and Nebraska State Statutes sections 84-712 through 84-712.09.

GENERAL PRINCIPLES:

As a holder of public records, the College follows state law concerning access to those records by members of the public, unless those records fall under federal copyright law.

Availability of Nebraska State Statutes: The Nebraska state statutes referred to in this document are available at web page <https://nebraskalegislature.gov/laws/browse-statutes.php>

Definition of Public Records. By Nebraska state statute, most records in possession of the College are "public records." However, there are some significant exceptions. Among the records which are not considered public records are these:

(A) personal information in records regarding a student (present, prospective or former), other than routine directory information; (B) Medical records; (C) academic and scientific research work; (D) attorney-client communications; (E) appraisals and appraisal information and negotiation records concerning purchase or sale of property, prior to completion of the purchase or sale; (F) Personal information in records regarding College personnel (other than salaries and routine directory information); (G) Information pertaining solely to protection of the physical security of College property; (H) records revealing the identity of any person using the library's materials or services; and (I) job application materials (job applications, resumes, reference letters and school transcripts) submitted by applicants for employment, other than those submitted by persons who are offered and who accept an interview for employment by the College.

For a complete description and listing of the definition of "public records" and the exclusions from that definition, see sections 84-712.01 and 84-712.05 of the Nebraska state statutes.

1. Request for Access to Public Records

- A. Any person may request access to or a copy of any public record of the College by submitting a written request therefore to the College's General Counsel.

2. Standard Procedures

- A. Upon receipt of a written request for access to or copies of a public record, the College shall provide to the requester as soon as is practical and without delay, but not more than four business days after actual receipt of the request:

- 1) access to or, if copying equipment is reasonably available, copies of the public record;

OR

- 2) if there is a legal basis for denial of access or copies, a written denial of the request together with the following information: (a) a description of the contents of the records withheld and a statement of the specific reasons for the denial, correlating specific provisions of the records to specific reasons for the denial, including citations to the particular statute and subsection thereof providing the exception relied on as authority for the denial; (b) the name of the College official or employee responsible for the decision to deny the request; and (c) notification to the requester of any administrative or judicial right of review. (Nebraska statute section 84-712.04 of the Nebraska statutes requires this information to be furnished); OR

- 3) if the entire request cannot, with reasonable good faith efforts, be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practical date for fulfilling the request, or, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request.

- B. Nebraska state statute section 84-712 authorizes requesters to use their own copying or photocopying equipment to copy records. Any copying using the requester's equipment shall take place on College premises, either in the President's Office or at a location mutually agreed to by the requester and the College, during regular business hours and in the presence of a College representative.

- C. A requester may obtain copies, in any form designated by the requester in which the public record is maintained or produced by the College, including but not limited to printouts, electronic data, discs, tapes and photocopies.

- D. The College is not required to produce or generate any public record in a new or different form or format modified from that of the original public record.
3. Costs
- A. The College shall charge a fee to the requester in an amount to cover the actual cost to the College incurred in fulfilling the request. Said fee shall include the cost of supplies, equipment, and staff time utilized in fulfilling the request.
 - B. If the College estimates that the actual cost to fulfill the request will exceed fifty dollars (\$50.00) then it shall require the requester to furnish a deposit prior to fulfilling the request.

Adopted 7/1/00; Revised 11/16/04; 6/14/06; 11/9/06; 9/06/07; Reviewed and no changes
7/20/10, 5/1/14