



Success. It's In Our Nature.

Policy Name: Freedom of Information Law (FOIL) Compliance

Policy Number: B-7

Functional Area(s) Responsible: College President

Owner(s) of Policy: College President

Most Recent BOT Approval Date: May 2010

Most Recent Review Date: Spring 2023

Most Recent Review/Revision Type: none minor/non-substantive substantive/extensive

Policy Statement:

Records Access Officer

The Director of Public Relations and Communications shall be Finger Lakes Community College's Records Access Officer and assume primary responsibility for ensuring that the College maintains up-to-date listings of records and their location. The Records Access Officer shall also serve as an informational resource for the College's record custodians and for individuals who require assistance determining the exact nature and location of a record. The name and contact information for the Records Access Officer shall be posted on the College's web site and in the President's Suite.

Hours for public inspection

Finger Lakes Community College shall make records available during published normal business hours.

Location of records

Finger Lakes Community College shall make records available for in-person inspection at the location where the records are stored. Record custodians must maintain a current list, by subject matter, of all records that they maintain. The list must accurately reflect the categories of records that the custodian maintains. Each record custodian must update his/her list twice per year.

Fees

The College shall not charge any member of the public for searching for records or for allowing inspection of records in person. The College shall not charge any member of the public for a certification attesting to the non-existence of a record or that the record cannot be found after a diligent search. The College shall provide copies of records to individuals seeking records for a fee of "\$0.25 per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record" as permitted by the Public Officers Law §87.1(b)(iii). As noted above, many of these documents are available only through a computer program and will require dedicating a College computer for many hours to retrieve these documents. Such computer time can be considered in determining the "actual cost of reproducing the record," FOIL Agency Opinion #13575. Accordingly, the cost of the computer run time needed to print out the responsive records will be included in the actual cost.

Reason(s) for Policy:

The Freedom of Information Law (FOIL) requires New York's public agencies to create a method for responding promptly to requests for information from members of the public. This policy ensures that the College is in compliance with the NYS Freedom of Information Law ("FOIL") and assists members of the College community and general public who request information pursuant to FOIL.

Applicability of Policy:

All members of the College community should be familiar with this policy.

Definitions:

None

Related Documents:

- NY Public Officers Law, Article 6 (Freedom of Information Law)
- NYS Education Department Regulations, 8 NYCRR Part 311
- FLCC Availability of Policies and Procedures for Review policy

Procedures:Procedure for responding to record requests

The Records Access Officer shall respond to requests for access to records under FOIL in accordance with the following procedures:

- 1) Requests for records may be verbal or in writing and must reasonably identify the records sought. Wherever possible, the individual requesting records should supply any information that will assist in locating the record.
- 2) The Records Access Officer will respond to all requests within five business days as required by law. The response will be in writing and will indicate either (a) that the request is being granted or denied, or (b) an approximate anticipated date when the request will be granted or denied and a statement, where appropriate, that access to the record will be determined in accord with FOIL's provisions allowing a party who submits records to a state agency to request that the record not be disclosed. Wherever reasonably possible, the College will grant access to a record within five business days.
- 3) If the College determines that it will grant a record request but cannot disclose the record within twenty business days from the date the College sent the acknowledgment letter, the College will send another letter indicating both the reason for its inability to grant the request in a shorter period of time and giving a date indicating when the request will be granted.
- 4) If the College does not comply with the FOIL request procedure as outlined above, the individual seeking the record may treat the lack of a response as a denial of access for purposes of this policy.
- 5) The College may deny access to records that are not subject to disclosure under FOIL, as described below.
- 6) The individual requesting access to a record may appeal any denial of access in accordance with this policy.

Records not subject to disclosure

The College will not disclose the following records pursuant to this policy:

- 1) Records that are specifically exempted from disclosure pursuant to state or federal statute (e.g., student education record information under the Family Educational Rights and Privacy Act).

- 2) Records that, if disclosed, would result in an unwarranted invasion of personal privacy. This category includes: employment, medical or credit histories or personal references of applicants for employment; items involving the medical or personal records of a client or patient in a medical facility; lists of names and addresses if such lists would be used for commercial or fund-raising purposes; disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the College; disclosure of information of a personal nature reported in confidence to the College and not relevant to the ordinary work of the College; and information of a personal nature contained in a workers' compensation record, except as permitted under the New York State Workers' Compensation Law.
- 3) Records that, if disclosed, would impair present or imminent contract awards or collective bargaining negotiations.
- 4) Records that constitute trade secrets or are submitted to the College by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise. Any commercial enterprise that wishes to request that materials it has submitted to the College be exempt from disclosure under this provision must request such an exemption in writing at the time it submits the relevant materials to the College, in accordance with instructions to be furnished by the Records Access Officer. A College employee who is notified of a commercial enterprise's desire to submit such a request shall work with the Records Access Officer to facilitate the appropriate designation.
- 5) Records that are compiled for law enforcement purposes and which, if disclosed, would: interfere with law enforcement investigations or judicial proceedings; deprive a person of a right to a fair trial or impartial adjudication; identify a confidential source or disclose confidential information relating to a criminal investigation; reveal criminal investigative techniques or procedures, except routine techniques and procedures; or endanger the life or safety of any person.
- 6) Records that constitute inter-College or intra-College materials which are not statistical or factual tabulations or data, instructions to staff that affect the public, final College policy or determinations, or external audits (including, but not limited to, audits performed by the comptroller and the federal government).
- 7) Examination questions or answers that are requested prior to the final administration of such questions.
- 8) Records that, if disclosed, would jeopardize the College's ability to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures.

Procedure for appealing the College's decision to deny access to a record

- 1) Anyone requesting records may appeal the College's denial of a record within 30 days. A complete appeal will include the date of the appeal, the date and location of the request for records; the records to which the requestor was denied access, whether the denial of access was in writing or due to the College's failure to provide the record, and the name and address of the requestor.
- 2) The President will hear appeals related to the denial of access to records under FOIL:

Finger Lakes Community College
Office of the President
3325 Marvin Sands Drive
Canandaigua, NY14424

- 3) The President will transmit copies of all appeals to the NYS Committee on Open Government immediately upon receipt:

NYS Committee on Open Government
Department of State
162 Washington Avenue
Albany, NY 12231

- 4) The President will decide appeals and set forth the reasons for the denial in writing within ten days of receiving the complete appeal.
- 5) The President will transmit his/her determination, in writing, to the Committee on Open Government immediately after rendering the determination.

Forms/Online Processes:

Although the College is not required to provide online services, the College provides the following online records at the discretion of each office responsible for maintaining the records:

- Annual Reports and Strategic Plans (current only)
- President's Cabinet Membership (internal site only)
- College Council Membership and Meeting Minutes (internal site only)
- Diversity Steering Committee Membership
- Presidential Updates

Appendix:

None