

PIERPONT COMMUNITY & TECHNICAL COLLEGE
Board of Governors Policies and Procedures
PP-5019

SHORT TITLE: Procedures regarding Freedom of Information Act (FOIA) Requests

REFERENCE: West Virginia Code §§ 18B-1-6 and 29B-1-1 *et seq.*

EFFECTIVE: February 13, 2003

AMENDED: October 15, 2012 (non-substantive); June 16, 2020

REPEALED:

REVIEWED: April 30, 2020

SECTION 1. PURPOSE

This policy establishes the procedure for requests made of Pierpont Community & Technical College (Pierpont) for public records, pursuant to the West Virginia Freedom of Information Act (WVFOIA), as found in W. Va. Code § 29B-1-1 *et seq.*

SECTION 2. SCOPE AND APPLICABILITY

This policy shall apply to all persons, schools, units, divisions, departments, and other entities that are under the jurisdiction of the Pierpont Community & Technical College and its Board of Governors, as well as those employees who may receive WVFOIA requests or who have access to responsive materials.

SECTION 3. DEFINITIONS

- 3.1 **Business Day.** Excludes Saturdays, Sundays, legal or college holidays, and any day when Pierpont closes in part or in whole (e.g., an early closure due to inclement weather).
- 3.2 **Custodian.** The elected or appointed official charged with administering a public record. [W. Va. Code § 29B-1-2(1)]
- 3.3 **Law Enforcement Officer.** Those individuals defined as law enforcement officers in W. Va. Code § 30-29-1(6), as well as those individuals defined as "chief executive" in W. Va. Code § 30-29-1(2).
- 3.4 **Person.** Any natural person, corporation, partnership, firm, or association.

- 3.5 **Public Record.** Any writing containing information relating to the conduct of the public's business, prepared, owned, and retained by a public body. [W. Va. Code § 29B-1-2(4)]
- 3.6 **Regular Business Hours.** 8:00 a.m. to 4:00 p.m. on a business day.
- 3.7 **Writing.** Any book, paper, map, photograph, card, tape recording, or other documentary materials, regardless of physical form or characteristics. [W. Va. Code § 29B-1-2(5)]

SECTION 4. POLICY

Pierpont Community & Technical College ~~to~~ will provide timely, accurate, and consistent agency responses to Freedom of Information Act requests in accordance with its obligations under the law and in compliance with the applicable rules and related procedures established by the West Virginia Secretary of State for the submission of information related to FOIA requests received and processed to an end.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 **Background.** The West Virginia Freedom of Information Act, West Virginia Code § 29B-1-1 *et seq.*, is a state law that allows any person to inspect, view, or copy any public record that is prepared, owned, and maintained by a public body.
- 5.2 **Exemptions.** Some records in the possession of a public body may be withheld from disclosure according to W. Va. Code § 29B-1-4, which is incorporated here by reference.

SECTION 6. GENERAL PROVISIONS

- 6.1 **Freedom of Information Officer.** The Vice President for Finance and Administration, or in his/her absence, the Assistant to the President, will serve as the Freedom of Information Officer for Pierpont Community & Technical College.
- 6.1.1 **Review and Referral.** The Freedom of Information Officer shall be responsible for reviewing any requests for information and referring them to the appropriate staff member to prepare a response.
- 6.1.2 **Other Responsibilities.** The Freedom of Information Officer shall
- 6.1.2.1. **Compliance.** Ensure compliance with the WVFOIA, Secretary of State Rules and Procedures, this policy, and any other related procedures.

6.1.2.2 **Education.** Assist in understanding and applying this policy and any related procedures.

6.1.2.3 **Training.** Train faculty and staff on key aspects of the WVFOIA, this policy, and any related procedures.

6.2 **Receiving a FOIA Request.** All requests, either in hard copy or electronic form, shall be immediately hand delivered upon receipt to the Freedom of Information Officer. If the person who initially receives the request is the person with the expertise in the area of the request, that individual should begin immediately to prepare a response but must also provide a copy of the request to the Freedom of Information Officer.

6.3 **Responding to a FOIA Request**

6.3.1 **Referral.** The Freedom of Information Officer will, upon receipt of a request, make a referral to the appropriate staff member to prepare a response.

6.3.2 **Response.** In drafting an appropriate response in accordance with applicable statutory requirements, the staff member should consult with the legal division of the West Virginia Council for Community & Technical College System. The staff member will present a copy of the draft response to the Freedom of Information Officer for approval before issuing a response. The Freedom of Information Officer must be copied on all final letters of response to Freedom of Information Act requests.

6.3.3 **Access to Records.** Under certain circumstances, as determined by the appropriate staff member preparing the response and the Freedom of Information Officer, a time may be arranged for the individual requesting the information to review the documents at a Pierpont office in lieu of providing copies of lengthy documents to the individual.

6.3.4 **Response Timeline.** A response, either granting the request or giving written reasons for its denial, must be issued to the applicant within five (5) ~~working~~ business days of receipt of the request.

6.4 **Secretary of State Reporting.** Upon receipt of a freedom of information request, the Freedom of Information Officer shall provide the following information to the Secretary of State:

6.4.1 **Request.** The nature of the request;

6.4.2 **Response.** The nature of the college's response;

6.4.3 **Response Time.** The timeframe required to comply with the request in full; and

6.4.4 **Fee.** The amount of reimbursement charged to the party requesting the information.

6.5 **Fees.**

6.5.1 **Cost.** Because responding to Freedom of Information Act requests demands staff time and resources, Pierpont may establish fees reasonably calculated to reimburse the college for its actual costs in responding to the request.

6.5.2 **Timekeeping.** Staff members preparing a response will keep track of the staff time spent and report that information to the Freedom of Information Officer. Fees for responding to requests will be updated from time to time as warranted by analysis of actual costs.

SECTION 7. RESPONSIBILITIES

Pierpont's Freedom of Information Officer, in consultation with the General Counsel's office of the West Virginia Community & Technical College System, is responsible for the interpretation and application of this policy.

SECTION 8. CANCELLATION

This policy does not cancel an existing policy.

SECTION 9. REVIEW STATEMENT

All policies shall be reviewed on a regular basis with a time frame for review to be determined by the President or President's designee. Upon such review, the President or the President's designee may recommend that the policy be amended or repealed.

Attachments: None

Distribution: Members of the Board of Governors, President of the College, Vice President of Finance and Administration, and Assistant to the President

Revision Notes: May 1, 2020—This revision reorganizes policy sections pursuant to PP-1000.B, inserts applicable statutory and regulatory references, and adds provisions recommended by the General Counsel's Office of the West Virginia Community & Technical College System.