

**BRIDGEVALLEY COMMUNITY AND TECHNICAL COLLEGE DRAFT
BOARD OF GOVERNORS**

POLICY A-7

WEST VIRGINIA FREEDOM OF INFORMATION ACT

Section 1. General

- 1.1 Purpose. - To establish a BridgeValley Community and Technical College (BridgeValley) Board of Governors policy regarding requests made for public records pursuant to chapter 29B of the West Virginia Code (the West Virginia Freedom of Information Act (“WVFOIA”)).
- 1.2 Authority. - W.Va. Code § 18B-1-6; W.Va. Code § 29B-1 *et seq.*
- 1.3 Scope. - This policy shall apply to all units, colleges, and divisions under the jurisdiction of the BridgeValley Board of Governors; and their employees who at any time may receive WVFOIA requests or who have access to responsive materials.
- 1.4 Effective Date. – July 12, 2013

Section 2. Definitions

- 2.1 **Public Record.** – A public record is “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))
- 2.2 **Writing.** – A writing is defined as 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))
- 2.3 **Exemptions.** – Those records which the College, in the sole discretion of the Office for Legal Affairs, could withhold pursuant to W. Va. Code § 29B-1-4(a).
- 2.4 **Custodian.** – WVFOIA Officer shall be the Custodian as defined by W. Va. Code § 29B-1-2(1).
- 2.5 **Covered Entities.** – All units and divisions under the jurisdiction of the BridgeValley Board of Governors; and their employees.

Section 3. Policy

- 3.1 The West Virginia Freedom of Information Act 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. As a public entity, BridgeValley will respond to all requests for public records made pursuant to WVFOIA in accordance with its obligations under the law.

- 3.2 BridgeValley may establish fees reasonably calculated to reimburse it for its actual cost in making reproductions of records requested pursuant to WVFOIA.
- 3.3 Some records in the possession of a public body are specifically exempt from disclosure under WVFOIA.
- 3.4 All BridgeValley employees are obligated to comply with the directives of the WVFOIA Officer.
- 3.5 WVFOIA Officer: The President and/or designee shall serve as the WVFOIA Officer, in consultation with the General Counsel's Office at the West Virginia Council for Community and Technical College Education. The WVFOIA Officer shall be the Custodian as defined in W. Va. Code § 29B-1-2(1).

Section 4. Procedure

- 4.1 Receiving a WVFOIA request- All Covered Entities who receive WVFOIA requests must, immediately upon receipt of the request, forward the request, via electronic mail to the Office of the President or by fax to 304.734.6630.
 - 4.1.a All Covered Entities upon receipt of a WVFOIA request, must immediately review records for potentially responsive Public Records. All responsive Public Records located must be sent to the Office of the President as soon as possible but no later than seventy-two (72) hours, excluding Saturday, Sunday, legal and/or customary holidays, from receipt of the WVFOIA request unless otherwise instructed.
 - 4.1.b The WVFOIA, generally, does not require the creation of Public Records; thus, employees shall not create Public Records without the consent of the Office of the President.
 - 4.1.c The WVFOIA Officer, in consultation with the West Virginia Community and Technical College System General Counsel's Office, shall review all responsive Public Records prior to their release to the public.
- 4.2 Responding to a WVFOIA request-WVFOIA mandates that upon receiving a request for Public Records made pursuant to WVFOIA, BridgeValley shall do one or more of the following, within a maximum of five business days of receipt, not including Saturdays, Sundays, legal and/or holidays:
 - (a) Furnish copies of the requested Public Records;
 - (b) Advise the person making the request of the time and place at which he or she may inspect and request copies of the Public Records during business hours;
 - (c) Deny the request, in whole or in part, stating in writing the reasons for such denial;
 - (d) Request clarification of the WVFOIA request; or
 - (e) Request an extension of time within which to fulfill the WVFOIA request.

- 4.2.1 All requests for Public Records made pursuant to WVFOIA must state with reasonable specificity the records sought. It shall be the sole responsibility of the WVFOIA Officer, in consultation with the Counsel's Office, to determine if a WVFOIA request is reasonably specific.
 - 4.2.2 For the purposes of this policy, the five business day response period shall begin on the first business day after the request is received if receipt is during regular business hours. Regular business hours shall be defined as Monday through Friday, 8:00 am to 4:30 pm.
 - 4.2.3 Under normal circumstances, responsive Public Records shall be provided in paper format. If the person or entity making the request seeks responsive Public Records in magnetic, electronic or computer format and the requested Public Records exist, at the time of the request, in magnetic, electronic or computer format, the requested Public Records shall be provided in the requested format.
 - 4.2.4 The WVFOIA Officer, in consultation with the Counsel's Office, shall be responsible for the removal or redaction of information that is not responsive to the request and/or the removal or redaction of information exempt from disclosure by the provisions of the statute or other applicable law, rule or privilege.
 - 4.2.5 If a Public Record exists in magnetic, electronic or computer format, and requires the removal or redaction of information, those Public Records shall not be provided in magnetic, electronic or computer format unless agreed to by the WVFOIA Officer at his or her sole discretion.
- 4.3 Exemptions- The Counsel for the West Virginia Community and Technical College System shall advise with regard to any record which may not be disclosed pursuant to W.V. Code § 29B-1-4(a).

Section 5. Fees

- 5.1 All fees shall, upon the request of the WVFOIA Officer, be paid to BridgeValley prior to the release of the Public Records to the person or entity making the request.
- 5.2 For all Public Records requests which result in ten (10) pages or less of responsive Public Records, no fee shall be levied against a person or entity making the request. No fees shall be charged to persons viewing the responsive Public Records only.
- 5.3 BridgeValley has established a fee of \$1.00 dollar per page of responsive Public Records copied. BridgeValley has also established a fee for all requests that require portions of electronic copies to be redacted, as well as a fee for all requests requiring that a CD-ROM, flash media or e-mail be furnished to the party making the request. These fees are reasonably calculated to reimburse BridgeValley for the actual cost in making reproductions of the requested Public Records.

5.3.1 A minimum fee of \$10.00 shall be charged per CD-ROM media or Flash media provided to the person or entity making the request.

5.3.2 A minimum fee of \$10.00 per ten (10) megabytes of data provided to the person or entity making the request using an alternative transmission method such as e-mail or File Transfer Protocol (FTP). Each additional ten (10) megabytes, or portion thereof, shall cost an additional \$10.00.

5.4 All responsive Public Records shall be mailed using the United States Postal Service via Certified Return Receipt Requested. If a person or entity requests, in writing, an alternate delivery method, the WVFOIA Officer shall deliver the responsive Public Records via the alternate delivery method requested and shall bill the requestor the actual cost of shipping.

Section 6. Responsibility for Interpretation

6.1 Responsibility for interpretation of this procedure rests solely with the WVFOIA Officer with advice from the West Virginia Community and Technical College Counsel Office. Any procedures developed or material changes thereto shall be posted for ten (10) working days before the procedures become effective.

Section 7. Responsibility for Implementation

7.1 Implementation of this procedure to the matters herein considered is the sole responsibility of the WVFOIA Officer, in consultation with the West Virginia Community and Technical College Counsel Office.