RELEASE OF COLLEGE INFORMATION AND PUBLIC ACCESS TO RECORDS

I. PURPOSE

Establishes procedures for compliance with appropriate requests from the general public for access to college information or to inspect records located in college offices.

II. BACKGROUND AND/OR LEGAL REFERENCES

This regulation concerns the release of college information and public access to records in general. For specific guidance regarding the release of student records, see College Regulation 651, Student Records: Disclosure of Student Information.

Legal references for this regulation include the following:

TASB Policy Manual, GAA, Public Information Program: Public's Right to Know, 3-7-94; FJ, Student Records, 3-7-94.

Chapter 552 of the Texas Government Code, known as the Open Records Act.


III. DEFINITIONS

A. Information is public information if, under a law or ordinance or in connection with the transaction of official business, it is collected, assembled, or maintained:

1. by the college;

2. for the college and the college;
   a. owns the information;
   b. has a right of access to it; or
   c. spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

3. by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

   Gov’t Code 552.002.

B. Information is in connection with the transaction of official business if it is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer’s or employee’s official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the college. Gov’t Code 552.002.

C. The definition of public information includes any electronic communication created, transmitted, received
or maintained on any device if the communication is in connection with the transaction of official business. *Gov’t Code 552.002.*

D. Public information is available to the public during the college’s normal business hours. *Gov’t Code 552.021.*

E. Categories of public information may include, but are not limited to, the following:

1. A completed report, audit, evaluation, or investigation made of, for, or by the Board of Trustees.

2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the college.

3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds, if the information is not otherwise confidential by law.

4. The name of each official and the final record of voting on all proceedings of the Board of Trustees.

5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by the Board, on completion of the estimate.

6. A description of the college's organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.

7. A statement of the general course and method by which the college’s functions are channeled and determined, including the nature and requirements of all formal and informal procedures.

8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.

9. A substantive rule of general applicability adopted by the Board and a statement of general policy or interpretation of general applicability formulated and adopted by the Board.

10. Any amendment, revision, or repeal of the information described in items III.E.6 through III.E.9.

11. Final opinions and orders issued in adjudication of cases.

12. A policy statement or interpretation adopted by the Board.

13. Administrative manuals and instructions to staff that affect a member of the public.

14. Information regarded as open to the public under the college’s policies.

15. Information that is in a bill for attorney’s fees and that is not privileged under the attorney-client privilege.

16. Information that is also contained in a public court record.

17. A settlement agreement to which the college is a party.

*Gov’t Code 552.022.*

F. A person or a person’s authorized representative may have a special right of access to information that
relates to the person and is protected from public disclosure by laws intended to protect that person’s privacy interests. *Gov’t Code 552.023.*

G. Each college employee and officer and each former employee and officer shall choose whether to allow public access to college-held information relating to the person’s home address and telephone number. Employees and officers shall state their choice to the college’s main personnel officer not later than the 14th day after employment begins, election or appointment to the Board occurs, or service with the college ends. If an employee or officer fails to state his or her choice within 14 days, the information is available to the public. However, an officer or employee may make a written request at any time to the personnel officer to open or close the information relating to the person’s home address or telephone number. *Gov’t Code 552.024.*

H. Categories of information that are not required to be disclosed to the public include, but are not limited to the following:

1. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov’t Code 552.101.*

2. Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. Information in the personnel file of an employee is to be made available to the employee or his or her representative in accordance with the requirements of Chapter 552 of the Texas Government Code. *Gov’t Code 552.102, 552.024.*

3. Information relating to litigation of a civil or criminal nature or settlement negotiations, to which the college is, or may be, a party or to which an officer or employee of the college, as a consequence of the office or employment, is or may be a party, that the Attorney General or the respective attorneys have determined should be withheld from public inspection. *Gov’t Code 552.103.*

4. Information that, if released, would give advantage to competitors or bidders. *Gov’t Code 552.104.*

5. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov’t Code 552.105.*

6. Drafts and working papers involved in the preparation of proposed policies. *Gov’t Code 552.106.*

7. Information the college’s attorney is prohibited from disclosing because of a duty to the college under the Rules of the State Bar of Texas or information that a court order has prohibited from disclosure. *Gov’t Code 552.107.*

8. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy. *Gov’t Code 552.109.*

9. Intergency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the college. *Gov’t Code 552.111.*

10. Student records, except to college personnel, the student, his or her parents, guardian, or spouse. The college is not required to release student records, except in conformity with FERPA. *Gov’t Code 552.114, 552.026.*
11. An audit working paper of an audit of the state auditor or the auditor of the college, including any audit relating to the criminal history background check of a public school employee. *Gov’t Code 552.116*.

12. Information relating to the home address, home telephone number, emergency contact information, or social security number of a current or former official or employee of the college, including information that reveals whether that person has family members. *Gov’t Code 552.117, 552.024*.

13. Test items developed by the college. *Gov’t Code 552.122; Art. 6252-17a, Sec. 3(a)(22), as amended by Ch. 347, Acts of 73rd Leg. notwithstanding repeal*.

14. The certified agenda or tape recording of a closed meeting, unless a court order makes it available for public inspection and copying. *Gov’t Code 551.104(c)*.

15. Records of a college library or library system that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:

   a. because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;

   b. to a person with a special right of access under Gov’t Code 522.023; or

   c. to a law enforcement agency or prosecutor under a court order or subpoena.

   *Gov’t Code 552.124*.

16. An oral interview that is obtained for historical purposes by an agreement of confidentiality between an interviewee and the college. The interview becomes public information when the conditions of the agreement of confidentiality have been met. *Education Code 51.910, Sec. 1(a)*.

17. Rare books, original manuscripts, personal papers, unpublished letters, and audio and video tapes held by the college for the purpose of historical research. *Gov’t Code 552.12, Education Code 51.910, Sec. 1(b)*.

18. The names of applicants for the position of President, except that the Board must give public notice of the name or names of the finalists being considered for the position at least 21 days prior to the meeting at which final action or vote is to be taken on the employment of the individual. *Gov’t Code 552.123*.

19. The name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education or to another person with the intent that the money or property be transferred to an institution of higher education. *Gov’t Code 552.1235*.

I. The Board or the officer for public records voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov’t Code 552.007*.

J. The College President shall be the college’s officer for public records. Each department head shall be an agent of the officer for public records for the purposes of complying with the Open Records Act and the college’s policy on public records. The officer for public records shall:

1. Make public records available for public inspection and copying.
2. Carefully protect public records from deterioration, alteration, mutilation, loss, or unlawful removal.

3. Repair, renovate, or rebinding public records when necessary to maintain them properly.

Gov’t Code 552.201, 552.202, 552.203.

K. The college may promulgate reasonable rules of procedure by which public records may be inspected efficiently, safely, without delay and consistent with the provisions of Chapter 552 of the Texas Government Code. Gov’t Code 552.230.

L. An officer for public records shall promptly produce public information for inspection, duplication, or both, in college offices on application by any person. If the requested information is unavailable because it is in storage or active use, the officer shall certify this fact in writing to the applicant and set a date and hour within a reasonable time when the record will be available for inspection or duplication. If an officer cannot produce the information for inspection or duplication within 10 business days after the request is made, the officer shall certify this fact in writing and set a date and time when the information will be available. An original copy of a public record shall not be removed from college offices by a requestor. Gov’t Code 552.221, 552.226.

M. The officer for public records shall not make an inquiry of any person who applies for inspection or copying of public records except to establish proper identification and the public records being requested. A written request for clarification must notify the requesting party that the failure to respond to the request for clarification on or before the 61st day after the request for clarification is received will result in the withdrawal of the request. All reasonable comfort and facility shall be extended to the applicant. Gov’t Code 552.222, 552.224.

N. The officer for public records or the officer’s agent shall treat all requests for information uniformly without regard to the position or occupation of the person making the request, the person on whose behalf the request is made, or the status of the individual as a member of the media. Gov’t Code 552.223.

O. A person requesting public information shall complete the examination of the information with ten (10) days after the date the officer for public records makes it available. The officer shall extend the initial examination period by an additional ten (10) days if, within the initial period, the person requesting the information files with the officer a written request for additional time. The officer shall permit a second additional ten-day examination period if, within the first additional period, the person requesting the information files with the officer a second written request for time. Gov’t Code 552.225.

P. The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the college. The period of interruption is not considered to be a part of the time during which the person may examine the information. Gov’t Code 552.225.

Q. If the college receives a written request for information it considers to be within one of the exceptions to required disclosure, but for which there has been no previous determination that it falls within one of the exceptions, the college, within ten (10) calendar days after receiving the written request, shall ask for a decision from the Attorney General about whether the information is within one of the exceptions. If a decision from the Attorney General is not so requested, the information is presumed to be public information. Gov’t Code 552.301(a)(d), 552.302.

R. When the college requests a decision, it shall submit the specific information requested to the Attorney General no later than the 15th business day after the date upon which the request is received. If the college wishes to withhold the information, it shall submit written comments stating the reasons why the information should be withheld. Gov’t Code 552.301(e) 552.303.

S. In a case in which information is requested and a third party’s privacy or property interests may be
involved, including a case under sections 552.101, 552.104, 552.110 and 552.114, the college may decline to release the information for the purpose of requesting a decision from the Attorney General. The college may, but is not required to, submit its reasons why the information should be withheld or released. *Gov’t Code 552.305.*

T. If a request will result in the imposition of a charge that exceeds $40, the college shall provide the requestor with a written itemized statement detailing the charges that will be imposed including any allowable charges for personnel costs. The college shall provide the requestor with notice of his or her rights and responsibilities according to the requirements of Section 552.2615 of the Texas Government Code. The college shall follow the rules established by the Attorney General in calculating the applicable charges. *Gov’t Code 552.261, 552.2615, 552.262.*

U. The officer for public records or his agent may require a deposit or bond for payment of costs or cash prepayment of anticipated costs for the preparation of a public record if the request has been provided a written itemized statement as required under Section 552.215 of the Government Code, and the charge for providing the information requested is estimated to exceed $100. A requestor who fails to make payment within ten (10) days of the date the bond or deposit is required is considered to have withdrawn the request. *Gov’t Code 552.263.*

V. The college may establish a reasonable limit on the amount of time that personnel are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time in accordance with the provisions of Section 552.275 of the Texas Government Code. *Gov’t Code 552.275.*

W. Public records shall be furnished without charge or at a reduced charge if the Board determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public. *Gov’t Code 552.267.*

X. The Board shall determine a time for which records that are not currently in use will be preserved, subject to state laws or other applicable rules governing the destruction and other disposition of local government records or public information. *Gov’t Code 552.004.*

Y. A college record may be intentionally destroyed under any of the following conditions:

1. The record is listed on a records control schedule filed with the State Library and Archives Commission and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal standards.

2. The record appears on a list of obsolete records approved by the State Library and Archives Commission.

3. A destruction request is filed with and approved by the State Library and Archives Commission for a record not listed on an approved control schedule.

4. A district court issues an expunction order for the destruction or obliteration of the records, pursuant to state law.

5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by the State Library and Archives Commission.

*Loc. Gov’t Code 202.001.*

Z. When photographic duplicates of public records have been made according to Local Government Code 201.003-.004, the Board may order the original public records to be destroyed or otherwise disposed of.
However, original public records shall not be destroyed or otherwise disposed of until the time for filing legal proceedings based on any such record has elapsed or any other legal requirements for retention are met. Notice of such proposed destruction or disposition shall first be given to the state librarian. *Loc. Gov’t Code* 201.004.

**AA.** The Board minute books shall not be disposed of or destroyed.

**BB.** A college record the subject matter of which is known by the custodian to be the subject of litigation shall not be destroyed until the litigation is settled. A college record that is subject to a request under the Open Records Act shall not be destroyed until the request is resolved. *Loc. Gov’t Code* 202.002.

**CC.** The Board shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the certified agenda or tape recording shall be preserved while the action is pending. *Gov’t Code* 551.104(a).

**IV. POLICY**

**A.** Wharton County Junior College shall comply with all applicable Texas statutes pertaining to the release of college records, codes of state regulations issued to implement these statutes, all federal statutes pertaining to the freedom and dissemination of information and rights of privacy, and any other regulations governing the storing, managing, and disclosure of public information by institutions of higher education.

(POLICY APPROVAL: 2-21-96, Board of Trustees)

**V. PROCEDURES**

**A.** Persons desiring to review documents maintained by the college and classified as Open Records submit their request, in writing, to the College President or custodian of records. The application must properly identify the document or documents to be inspected. Such identification must be in sufficient detail to distinguish the document or information wanted from all others.

**B.** The applicant’s name and address must be set forth on the application. A picture identification card, such as a driver’s license, may be required to verify identity.

**C.** Applications are processed in the order in which they are received.

**D.** Applications to review documents must be approved by the College President or custodian of records.

**E.** In the event the requested documents are in active use or in storage and, therefore, not available at the time the application to review documents is submitted, the College President or designee so notes this fact in writing on the application to the applicant and sets a date and hour at which the requested materials will be available for inspection.

**F.** The college is not required to prepare or create new information requested by a member of the public. The Open Records Act does not require the college to prepare or generate information in the specific form that may be requested by the public. [See Open Records decisions numbers 458 (1987), 342 (1982), and 452 (1986).]

**G.** Persons inspecting documents may do so only in a designated inspection area, and a college employee must be available for assistance.

**H.** The College President or custodian of records may limit the number of pages that can be copied and supplied during a person’s visit, if the number of copies requested is beyond the reasonable capacity of the available
personnel and machines. Copies in excess of the number available during a person’s visit will be made and mailed to the applicant in the order in which the request is received.

I. Documents may be inspected during regular business hours.

J. Persons requesting information, in a written form, at a public meeting (Board meeting, hearing, or the like) will be directed to follow the procedures outlined in this policy.