

# **Access to Public Records and Property**

## ***622 - Administrative/Operating Guidelines***

Northcentral Technical College ("the College") District is subject to the requirements of the Wisconsin Public Records and Property Law (Wis. Stat. §§ 19.21 - 19.39).

The Board of Trustees of Northcentral Technical College believe that it is in the best interest of the College, its employees, and the general public to provide the greatest possible access to information regarding the affairs of government and the official records and property of the Northcentral Technical College concerning its operation, including the official actions of Northcentral Technical College, its officers, and employees.

Northcentral Technical College recognizes that it is the representative of the public and that the release of information to the public is an essential function of representative government.

Northcentral Technical College further recognizes that an integral part of the routine duties of the officers and employees of Northcentral Technical College should be the responsibility to provide access to information related to the affairs, records, and property of Northcentral Technical College.

### **PROCEDURE FOR THE RELEASE, INSPECTION, OR REPRODUCTION OF RECORDS AND PROPERTY.**

The College hereby adopts this Administrative Operating Guideline and the Notice included on pages 3 – 7 as the official procedure of the College in responding to requests for the release, inspection, or reproduction of the records and property of the College.

This Administrative Operating Guideline and the Notice included on pages 3 – 7 are intended to provide all necessary information that might be required by a member of the public in order to obtain access to the records and property of the College. Any questions in regard to this Administrative Operating Guideline and the Notice included on pages 3 – 7 shall be directed to the official legal custodian of the records and property.

This Administrative Operating Guideline and the Notice included on pages 3 – 7 may be modified from time to time by official action of the College, but absent such modification, the decisions of the official legal custodian of the records and property of the College shall be in conformity with its provisions.

Copies of this Administrative Operating Guideline hereby adopted shall be available on the College web site and shall be made available to any member of the public upon a request for inspection or reproduction.

### **RECORD AND PROPERTY PRESERVATION.**

The records and property of the College shall be retained and preserved by the official legal custodian as required by all applicable laws and no records and property shall be destroyed without the prior written approval of the custodian.

No record and/or property of the College shall be destroyed after the receipt of a request for such record and/or property until after the request is granted, or until any dispute concerning the request has been completely and finally resolved.

INDEMNIFICATION OF THE OFFICIAL LEGAL CUSTODIAN OF THE RECORDS AND PROPERTY.

Any costs or fees incurred by the official legal custodian of the records and/or property of the College shall be directly reimbursed by the College to the custodian and shall not be treated as the personal liability of the custodian.

Legal References: Sections 19.31-.39, Wisconsin Statutes.

Adopted January 12, 1998

Revised January 28, 2004

Revised July 23, 2007

Revised January 28, 2009

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Revised January 26, 2018

Revised August 19, 2019

Revised January 6, 2020

## **Notice and Procedure Regarding Access to Public Records and Property of Northcentral Technical College**

### OFFICIAL NOTICE

This Notice has been adopted by the Northcentral Technical College Board of Trustees (“the Board”). Northcentral Technical College is a “district” established under Wis. Stat. ch. 38, and its general powers and legal status are set forth under Wis. Stat. ch. 38.

The Board has directed that this Notice be placed on the College website so that the Notice can be viewed and inspected by any member of the public. In addition, individual copies of this Notice will be made available to any person who requests such a copy from the official legal custodian of the records and property of the College.

### THE FOLLOWING INFORMATION IS PROVIDED TO THE PUBLIC TO ASSIST THEM IN OBTAINING ACCESS TO THE RECORDS AND PROPERTY OF THE COLLEGE.

1. The College has designated the Vice President of Finance & General Counsel or his/her designee as the official legal custodian of the records and property of the College. The name of the individual presently holding this position can be obtained by contacting the Administration Office of the College which is located at the following address: 1000 W. Campus Drive Wausau, Wisconsin 54401. All requests for the release, inspection, and/or reproduction of the public records and property of the College shall be directed or referred to the official legal custodian.

The legal custodian is vested by the Board with full legal power to render decisions and carry out the duties of the College under the Public Records and Property Law, Wis. Stat. §§ 19.21 – 19.39. The legal custodian will determine whether records or property must be made available for inspection and/or copying by a requestor, or whether the request may be denied. The legal custodian will also be responsible for the collection of costs as permitted by law.

All employees of the College shall be informed in writing that the Vice President of Finance & General Counsel or his/her designee is designated as the official legal custodian of the public records and property of the College. The employees shall further be informed of the duties of the official legal custodian and shall also be made aware of the other provisions included in the Notice.

2. Except as otherwise limited by state law and this Administrative Operating Guideline, any public record and property of the College will be made available for inspection at the offices of the official legal custodian during normal, regular business hours upon proper request. The normal, regular business hours of the offices of the legal custodian are from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding College holidays. No original public records and property of the College shall be removed from the possession of the official legal custodian.

3. The following are positions that constitute a “state public office” which are subject to special requirements of the Public Records and Property Law:

- Members of the District Board of Trustees
- District President
- Associate Vice President of Human Resources, Vice President of College Advancement, Vice President for Learning, Executive Vice President, Vice President of Finance and General Counsel, Associate Vice President of Information Technology/Chief Information Officer, Associate Vice President of Facilities Management, and Associate Vice President of Marketing, Public Relations & Legislative Advocacy.

4. The Administrative Operating Guideline of the College regarding the release, inspection, and/or reproduction of public records and property handles requests as follows:

- The official legal custodian will grant or deny a request to release, inspect, or copy public record(s) and property pursuant to Wis. Stat. §§ 19.21 – 19.39.
- After the receipt of any written request for access to the public records and property of the College, if granted, the official legal custodian will attempt to make such records property available as soon thereafter as practical.
- If any records and property of the College are requested which are necessary for the day-to-day operation of the College, the official legal custodian may arrange for the records and property to be inspected after normal working hours.
- If a written request is denied, it will be denied in writing.
- If the official legal custodian determines that portions of any records and property requested contain information which should not be released, the custodian will redact such records and property to remove the material not to be released and thereafter release the balance of the document.
- Any requests for computer records and property of the College will be referred by the official legal custodian to the individual in charge of the equipment involved to determine the cost of any computer search, and printing charges.
- When a time period is provided for performing an act, Saturdays, Sundays, and holidays shall be excluded in computing the time period.

5. It is required that requests for any records and property of the College be submitted in writing to the official legal custodian. It is not necessary that any person requesting access to the records and property of the College identify himself or herself in order to obtain a record and property, nor need any person requesting access to the records and property of the College state any reason for his or her request.

6. The written request for records and property must reasonably describe the record and/or property or information sought. If the official legal custodian cannot reasonably determine what records or property or information are being requested, the request shall be denied in writing and the reason for the denial shall be stated in the written denial. The College is not obligated to create new records or property by extracting information from existing records or property and compiling the information in a new format as defined by Wis. Stat§ 19.35(1)(L).

7. Any person shall have not only the right to inspect the records and property of the College, but also, consistent with state law, the right to receive a reproduction of such records and property. In the event that a person files a written request for reproduction of any of the records and property of the College, that person shall be informed of the costs of locating and reproducing such records and property. Fees charged by the College relative to the costs of producing any of the records and property of the College are set forth in the “Fee Schedule” below.

8. For records and property listed in paragraph A below, the College is obligated to give notice to the person named in the record and property and allow time for the person to seek judicial review before allowing access to the record and property.

A. The records and property that are subject to this right of judicial review are:

- A record or property containing information relating to an employee that is the result of an investigation into a disciplinary matter involving the employee or a possible employment-related violation by the employee of a statute, ordinance, rule, regulation, or policy of the employee’s employer;
  - A record or property obtained by the College through a subpoena or a search warrant;
- and

- A record or property prepared by an employer other than the College if the record or property contains information relating to the employee unless the employee authorizes the College to provide access to that information.

B. The College is obligated to give notice to the “record and property subject” “to whom the record and property pertains” and not to all persons named in the record and property. While the record and property may pertain to more than one individual, the mere fact that the record and property contains personally identifiable information about the individual such as his or her name does not mean that individual is entitled to be notified that the record and property is proposed to be released.

- Notice must be issued within three (3) days of the decision to release the record or property
- Notice must be issued by certified mail or personal service
- Notice must “briefly describe” the record or property
- Notice must describe the challenge process
- “Record or property subject” may give notice of intent to seek court order within five (5) days of receipt of notice.
- “Record or property subject” may commence action in court within ten (10) days of receipt of notice
- If no action is commenced within twelve (12) days of sending the notice, then release is required
- If action is commenced, then release is prohibited until court action is complete
- Custodian is responsible to notify requester of results of court action if requester does not intervene

9. If the College decides to permit access to a record and property relating to a “record and property subject” who is an officer or employee of the College holding a state public office, the College shall, consistent with state law, serve written notice of that decision on the record and property subject.

The College is obligated to give notice to the “record and property subject” who is an officer or employee of the College holding a state public office and not to all persons named in the record and property. While the record and property may pertain to more than one individual, the mere fact that the record and property contains personally identifiable information about the individual such as his or her name does not mean that individual is entitled to be notified that the record and property is proposed to be released.

- Notice must be issued within three (3) days of the decision to release the record and property
- Notice must be issued by certified mail or personal service
- Notice must “briefly describe” the record and property
- Notice must include a description of the rights of the “record and property subject” under Wis. Stat. s. 19.356(9)(b). Specifically, that the “record and property subject” may augment the record and property to be released within five (5) days after receipt of the notice with written comments and documentation selected by the “record and property subject”.

Except as otherwise authorized or required by statute, the College shall release the record and property as augmented by “the record and property subject”.

10. The College will review the Family Education Rights and Privacy Act (FERPA) and/or any other Administrative Operating Guidelines that may pertain to the request being made.

## FEE SCHEDULE

The College hereby adopts the Fee Schedule to cover the actual costs relating to the location (which exceeds \$50.00), reproduction of any of the records and property of the College, and mailing or shipping of any copy of records and property. It is intended that this fee schedule shall cover the payment of the actual, necessary, and direct costs incurred in locating a document, mailing or shipping of a copy of a record and property, or in providing any person with a reproduction of any of the records and property of the College. This schedule shall be reviewed annually by the College and adjusted as the need arises.

### I. COSTS OF LOCATING DOCUMENTS:

Costs associated with locating records and property will be charged if they exceed \$50.00. The official legal custodian will seek the prior written approval of the requestor before proceeding. In addition, the custodian will endeavor, but will not be required, to provide an estimate of the total anticipated costs for locating the record and property.

The College will determine the cost of locating records and property by using the current hourly rate for employees involved in attempting to locate the records and property.

### II. REPRODUCTION EXPENSES:

Costs of copying and reproduction of records and property where equipment is available will be paid at the time the records and property are provided.

A. Five cents per page.

B. Costs of reproduction of records and property where equipment is not available within the College.

1. If equipment necessary for any reproduction is not available within the College, the College will rent whatever equipment is necessary to perform the function and will bill the requestor for such rental fee. The cost charged will be the actual costs paid by the College to the third party vendor.

2. Items in such a situation would include but would not be limited to audio or videotape reproduction equipment, microfilm or fiche or ultra-fiche reproduction equipment, assorted computer hardware and software.

3. The actual cost to the College of the tape or other medium used for reproduction shall also be paid by the person making the request.

### III. MAILING EXPENSE

A fee may also include the actual necessary and direct cost of mailing or shipping documents.

### IV. DISPUTES:

The official legal custodian of the records and property of the College shall report any disputes that arise under this fee schedule to the Board and shall recommend such modifications and revisions, as he/she deems necessary.

### V. PAYMENT OF FEES:

1. The official legal custodian of the records and property of the College will require the payment of actual costs when the record and property is provided.

2. The official legal custodian of the records and property of the College may, in his/her sole discretion, elect to waive the imposition of the costs provided for herein.

End of Notice

Revised January 6, 2020