

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

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TITLE: FREEDOM OF INFORMATION

POLICY  
REFERENCE NUMBER: 8-0-107

DIVISION OF RESPONSIBILITY: Human Resource Services

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DATE OF LAST REVISION: September 9, 2021

**DISCLAIMER**

**PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC. AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

**I. RESPONDING TO FREEDOM OF INFORMATION ACT REQUESTS**

Employees of the System Office/College should refer the news media to the Public Information Officer. It is the responsibility of the Public Information Officer, in conjunction with the System/College President and office/department directors, to determine who will provide information directly to the news media on individual issues. Requests for information from human resource records should be coordinated with the appropriate human resource officer. All requests for information may be reviewed by legal counsel, as necessary.

In response to written requests for access to public records<sup>1</sup>, the System Office/College shall make a determination with reasons therefore as to the release or non-release of information within ten (10) days, (excepting Saturdays, Sundays and legal public holidays) of the receipt of any such request and notify the person making such request of its determination and the reasons for it; provided, however, that if the record is more than

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<sup>1</sup>S.C. Code Ann §30-4-30(c)

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twenty-four (24) months old at the date the request is made, the System Office/College has twenty (20) days (excepting Saturdays, Sundays, and legal public holidays) of the receipt to make the notification. Such a determination shall constitute the final opinion of the System Office/College as to the public availability of the requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying no later than thirty (30) calendar days from the date on which the final determination was provided, unless the records are more than twenty-four (24) months old, in which case the System Office/College has no later than thirty-five (35) calendar days from the date on which the final determination was provided. Generally, requests for information under the Freedom of Information Act must be in writing, except when the requestor appears in person for certain information that must be disclosed pursuant to statute.<sup>2</sup> E-mail requests for information will be accepted only if the requestor provides a complete mailing address.

Pursuant to the S.C. Freedom of Information Act, an employee or officer's name, dates of employment or service, title, sex, and race may be disclosed.<sup>3</sup> The determination to disclose other types of information should be made on a case by case basis. Requests for salary information should be reviewed in accordance with the requirements of the S.C. Freedom of Information Act.

The System Office/College is not required to create an electronic version of a public record when one does not exist to fulfill a records request.

To the extent practicable, media requests (e.g. press, broadcast) for information shall be made in writing; however, at the discretion of the public relations/communication officer, certain media requests may be made in person or by telephone in the interest of time.

In responding to requests for information concerning current or former employees by prospective employers, the System Office/College human resource office (HR) may provide information as follows:

1. HR employees responding to oral requests for information may verify an employee's or former employee's dates of employment, pay range, wage history and eligibility for rehire.<sup>4</sup>

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<sup>2</sup> S.C. Code Ann. §30-4-30(d)

<sup>3</sup> S.C. Code Ann. §30-4-50.

<sup>4</sup> S.C. Code Ann. §41-1-65; S.C. Code of Regulations R. 19-720.03

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2. HR employees responding to written requests for information may disclose the following information to which an employee or former employee may have access:
  - a. Written employee evaluations;
  - b. Official human resources notices that formally record the reasons for separation;
  - c. Whether the employee was voluntarily or involuntarily released from service and the reason for the separation; and
  - d. Information about job performance.
3. HR employees shall not knowingly or recklessly release or disclose false information.
4. HR employees should notify all requestors (persons or private entities) that personal information obtained from state agencies shall not knowingly be used for commercial solicitation directed to any person in this State.<sup>5</sup>

Information pertaining to students should be coordinated with the appropriate persons to ensure that privacy rights of students are safeguarded as required under the Family Educational Rights and Privacy Act, as appropriate.

## II. FEES

1. The individual or organization making a request for information may be charged a fee for the search, retrieval, and redaction of records. Fees charged must be uniform for copies of the same record or document and may not exceed the prevailing commercial rate for the producing of copies. Copy charges may not apply to records that are transmitted in an electronic format. The System Office/College shall develop a fee schedule to be posted online. The fee for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid employee who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request. The records must be furnished at the lowest possible cost to the person requesting the records.

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<sup>5</sup> S.C. Code Ann. §30-2-50; SBTCE Policy and Procedure on Solicitation and Distribution (8-9-100, 8-9-100.1)

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2. The System Office/College reserves the right to require a deposit not to exceed twenty-five (25) percent of the total reasonably anticipated cost for reproduction of the records. If a deposit is required, the search for records will not be initiated until the deposit has been received. All fees associated with a request for information shall be made by check only, made payable to the State Board for Technical and Comprehensive Education or to the specific college from whom the records have been requested.
3. To the extent possible, fees for expenses incurred will be collected at the time the information is released. Fees not collected at the time the information is released will be billed to the individual or organization and shall be subject to agency policies and procedures regarding collection of fees.
4. The System Office/College is not required to charge a fee. If a request for information is deemed simple or routine and only requires copying of a few pages of readily available documents which serve the public interest, then charging or collecting a fee is not recommended.
5. If a fee from a previous request remains outstanding, and the requestor makes a subsequent request, the response to the subsequent request shall not be released to the requestor until all outstanding fees pertaining to the previous request(s) have been collected.

### **III. OBTAINING PERSONAL INFORMATION FOR COMMERCIAL SOLICITATION**

1. A person or private entity shall not knowingly obtain or use any personal information obtained from a System Office/College for commercial solicitation directed to any person in this State.
2. The System Office/College, as a public entity, shall provide a notice to all requestors of records and to all persons who obtain records pursuant to Section 30-2-50 of the Code of Laws of the State of South Carolina that obtaining or using public records for commercial solicitation directed to any person in this State is prohibited.

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3. The System Office/College shall take reasonable measures to ensure that no person or private entity obtains or distributes personal information obtained from a public record for commercial solicitation.
4. A person knowingly violating these provisions of Section 30-2-50 is guilty of a misdemeanor and, upon conviction, must be fined an amount not to exceed five hundred dollars or imprisoned for a term not to exceed one year, or both.
5. This does not apply to a local governmental entity of a subdivision of this state or local government.

#### **IV. DISCLOSURE OF APPLICANT INFORMATION**

1. All materials, regardless of form, gathered by the System Office/College during a search to fill an employment position are exempt from disclosure, except materials relating to not fewer than the final three applicants under consideration for a position must be made available for public inspection and copying.
2. In addition to making available for public inspection and copying the materials described in this item, the System Office/College must disclose, upon request, the number of applicants considered for a position. For the purpose of this item “materials relating to not fewer than the final three applicants” do not include an applicant’s income tax returns, medical records, social security number, or information otherwise exempt from disclosure from Section 30-4-40.