

Public Records Requests: What Every Leader Should Know

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Session Overview

GENERAL RECORDS REQUESTS

- Day to Day Operational Records That Are Created During the Course/Scope of Carrying Out Job Duties
- Arizona Public Records Law ARS [Title 39, Chapter 1] and [Title 41 Article 2.1]
- Governing Board Policy on Public Records 6.17
- Administrative Regulation 4.15

What is a Record?

- Pursuant to **ARS §41-151.18**, “records” means:
- **All books**
- **Papers**
- **Maps**
- **Photographs or other documentary materials**
- **REGARDLESS OF PHYSICAL FORM OR CHARACTERISTIC**

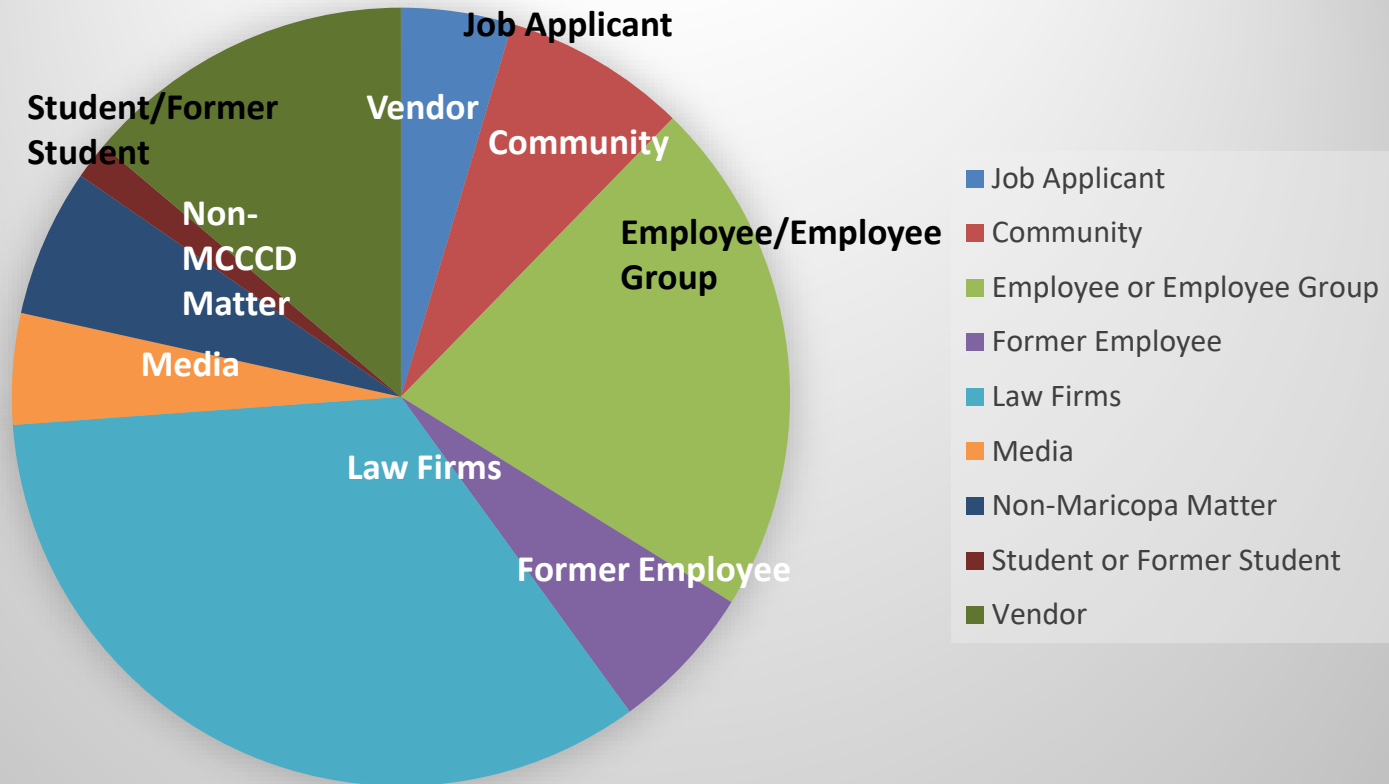
- **Made or received by any governmental agency**.....in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government "

- Public records shall be open to inspection by any person at all times during office hours (ARS §39-121). All **public bodies** shall maintain all records . . . reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from the state or any political subdivision of the state (ARS §39-121.01(B)).

Sample Records Inventory

- Email Communications (send and/or receive)
- Voice Messages (send and/or receive)
- Text Messages (send and/or receive)
- Appointment Calendar
- Performance Reviews
- Disciplinary Actions
- Reports
- Expenditures/Travel Records

PUBLIC RECORDS REQUESTS



Reasons That Employees Make Records Requests

- Lack of Trust in the Process
- Lack of Trust in Leadership
- To gather info in response to Corrective Action or Grievance Procedures
- As part of the application process/looking for explanations as to why they were not the selected candidate
- Litigation/EEO Complaints

MCCCD Policies and Regulations

Board Policy 6.17 Responding to Requests for Public Records

- Name
- Titles or positions (including academic degrees and honors received)
- Fact of past or present employment
- Dates of employment
- Salaries or rates of pay
- Name of employee's current or last known supervisor
- Disciplinary Records
- Self-Evaluations
- Performance Reviews

AR 4.15 Retrieval, Disclosure and Retention of Records

Centralized Authority:

.....*the authority to manage MCCCD public records is centralized in the Manager of the Office of Public Stewardship (Manager).*

College Vs District Response to Requests

College Vs. District Response to Requests

College

- Requests for public information vs. requests for to produce tangible documents (i.e., names of college administrators; marketing information)
- Applicant inquiries
- Requests for Student Directory Information that are limited to the single location.

District Office

- Broad requests that impact the system as a whole.
- Procurement Records/Contracts
- Personnel Records/Salary Info
- Requests for Email/Text Messages
- Requests for Student Directory Information for all colleges

PERSONAL DEVICES

- Duty to Produce Public Records
- Not to be used to circumvent disclosure
- Spoliation: illegal/unethical destruction
 - ARS 13-2407: Tampering with a public record
 - Class 6 Felony



Creating Records: Do's and Don'ts

DO	DON'T
Chronicle events when necessary (administrative/operational, academic, legal, fiscal reason)	Create unnecessary correspondence
Keep it factual; accurate; not misleading	Keep emotion out of the equation; also non-relevant detail
Direct to those on a need to know basis	Include parties not relevant to the matter
Protect personal information; privacy/SS#; DOB	Expose PII
Retain according to retention schedules; time period for student to grieve the	Delete when access to the record has been requested
Assume that the person you are writing about; the general public; legal counsel or the court will inspect and review the records that you create	Assume that the correspondence will be kept internally

Best Practices

- Do not comingle personal and work email accounts.
- Do not create long message streams – threads that are back and forth and entail extraneous conversation
- Be cautious when sharing personal information on work emails and on chat
- Utilize discernment when using email to send DRAFTS back and forth
- Stick with the FACTS

Best Practices

- Correspondence written to/from legal counsel related to advice on Maricopa business matters, please title in the subject line *Client Attorney Communication*
- Instant Messages are subject to release
- Dance as if no one is watching, but WRITE as if everyone will
- **Create a Trusting & Transparent Work Environment**
- **Know & Follow Policies, Rules and Regulations**

QUESTIONS???