

EXHIBIT

MONTGOMERY COUNTY PUBLIC SCHOOLS

Public Information (State Law)

1. Definitions.
 - (i) *Person in interest* means and includes the person who is the subject of a record or any representative designated by said person, except that if the subject of the record is under legal disability, the term *person in interest* shall mean and include the parent or duly appointed legal representative. (1983, ch. 252.)
2. Inspection of public records generally; rules and regulations; procedure when records not immediately available; special provisions as to Charles County.
 - (a) All public records shall be open for inspection by any person at reasonable times, except as provided in this article or as otherwise provided by law. Subject to the other provisions of this article, the official custodian of any public record shall make and publish such rules and regulations with reference to the timely inspection and production of such record as shall be reasonably necessary for the protection of such record and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.
 - (b) In Charles County, except for records kept by officials, agencies, or departments of the State of Maryland, public information shall be regulated by § 6 of this article. (1970, ch. 698; 1972, ch. 601; 1974, ch. 239; 1978, ch. 1006; 1982, ch. 431.)
3. Custodian to allow inspection of public records; exceptions; denial of right of inspection of certain records; court order restricting disclosure of records ordinarily open to inspection.
 - (c) The custodian shall deny the right of inspection of the following records or any portion thereof, unless otherwise provided by law:
 - (i) Medical, psychological, and sociological data on individual persons, exclusive of autopsy reports of a medical examiner; except that the person in interest shall be permitted to examine medical and psychological data to the same extent that

access is granted by hospitals and related institutions in accordance with Article-Health-General, § 4-302 (b) of the Code. After July 1, 1983 a custodian may deny the right of inspection to records on the basis of sociological data only under rules that define, for the records in his possession, the meaning and scope of sociological data;

- (ii) Adoption records or welfare records on individual persons;
- (iii) Personnel files except that such files shall be available to the person in interest, and the duly elected and appointed officials who supervise the work of the person in interest. Applications, performance ratings and scholastic achievement data shall be available only to the person in interest and to the duly elected and appointed officials who supervise his work;
- (iv) Letters of reference;
- (v) Trade secrets, information privileged by law, and confidential commercial, financial, geological, or geophysical data furnished by or obtained from any person;
- (vi) Library, archives, and museum material contributed by private persons, to the extent of any limitations placed thereon as conditions of such contribution;
- (vii) Hospital records relating to medical administration, medical staff, personnel, medical care, and other medical information, whether on individual persons or groups, or whether of a general or specific classification;
- (viii) School district records containing information relating to the biography, family, physiology, religion, academic achievement, and physical or mental ability of any student except to the person in interest or to the officials duly elected and appointed to supervise him;
- (ix) Circulation records maintained by public libraries showing personal transactions by those borrowing from them;
- (x) The home address or telephone number of any employee of the State or any agency, instrumentality, or political subdivision of this State, whether in the classified or nonclassified service, except with the permission of the employee, unless the governmental entity which employs the person has determined that disclosure of the address or number is necessary to protect the public interest;

- (xi) Records describing an individual person's finances, income other than salaries of public employees, assets, liabilities, net worth, bank balances, financial history or activities, or credit worthiness, except that such records shall be available to the person in interest;
- (xii) Occupational and professional licensing records on individual persons, except that the custodian shall permit the right of inspection to the following data: names, business addresses, business telephone numbers, educational and occupational backgrounds, professional qualifications, orders and findings that result from formal disciplinary actions, and evidence provided to the custodian in order to satisfy a statutory requirement of financial responsibility. If the custodian cannot provide business addresses, then he shall permit inspection of home addresses. The custodian may permit the right of inspection of other data on individual persons, but only if inspection is required for a compelling public purpose and is provided by rule or regulation. On written request from an individual licensee, the custodian shall delete that person's name from licensee lists purchased from the custodian. Except as prohibited by this section or any other provision of law, occupational and professional licensing records shall be available to the person in interest;
- (xiii) Retirement files or records on individual persons, except that such files or records shall be available to the person in interest and to his appointing authority. After the death of the person in interest, such files or records shall be available to any beneficiary, the personal representative of the estate of the person in interest, and any other person who demonstrates to the satisfaction of the administrators of the retirement and pension systems a valid claim of right to benefits. On request, the custodian shall indicate whether a person is receiving any retirement or pension allowance. If a county by law requires an agency of the county to conduct audits of retirement files or records relating to employees or former employees of the county, the custodian shall allow review and inspection of such files and records by employees of the agency. The employees of the agency shall hold as confidential all information obtained pursuant to that review and inspection. The agency and its employees may not disclose information which would identify individuals who are the subjects of those files and records; and
- (xiv) Information system security manuals or other similar public records related to the security of information systems.

- (d) (1) Upon written request for access to any public record, the custodian shall either:
 - (i) Grant the request and produce the record immediately or within a reasonable period, not to exceed 30 days, as may be required to retrieve the information; or
 - (ii) Determine within 30 days of the written request whether to deny the request and immediately notify the applicant of a denial.
- (2) With the consent of the applicant, any time limit imposed by this section may be further extended for an additional period not to exceed 30 days.
- (3) If the public records requested are not in the custody or control of the person to whom written application is made, such person shall, within 10 working days of the receipt of the request, notify the applicant of this fact and if known, the custodian of the record and the location or possible location thereof.
- (4) Whenever the custodian denies a written request for access to any public record or any portion thereof under this section, the custodian shall provide the applicant with a written statement of the grounds for the denial, which statement shall cite the law or regulation under which access is denied and all remedies for review of this denial available under this article. The statement shall be furnished to the applicant within ten working days of denial. In addition, any reasonably severable portion of a record shall be provided to any person requesting such record after deletion of those portions which may be withheld from disclosure.
- (f) Nothing in this article shall preclude a member of the General Assembly from acquiring statistical information, including names and addresses, of individuals who are licensed or comply with registering requirements under the laws of this State.

(1982, ch. 431; ch. 770, § 4; 1983, ch. 172.)

4. Copies, printouts and photographs of public records.

- (a) In all cases in which a person has the right to inspect any public records such person shall have the right to be furnished copies, printouts, or photographs for a reasonable fee to be set by the official custodian, except that copies of judgments may not be provided until the time for appeal has expired or, where an appeal has been noted, until such time as the appeal has been adjudicated or dismissed. Where fees for certified copies or other copies,

printouts, or photographs of such record are specifically prescribed by law, such specific fees shall apply.

- (b) If the custodian does not have the facilities for making copies, printouts, or photographs of records which the applicant has the right to inspect, then the applicant shall be granted access to the records for the purpose of making copies, printouts, or photographs. The copies, printouts, or photographs shall be made while the records are in the possession, custody, and control of the custodian thereof and shall be subject to the supervision of such custodian. When practical, they shall be made in the place where the records are kept, but if it is impractical to do so, the custodian may allow arrangements to be made for this purpose. If other facilities are necessary the cost of providing them shall be paid by the person desiring a copy, printout, or photograph of the records. The official custodian may establish a reasonable schedule of times for making copies, printouts, or photographs and may charge a reasonable fee for the services rendered by him or his deputy in supervising the copying, printing out, or photographing as he may charge for furnishing copies under this section.
- (c) Except as provided in subsection (d) of this section, the official custodian may charge reasonable fees for the search and preparation of records for inspection and copying.
- (d) The official custodian may not charge any search or preparation fee for the first 2 hours of official or employee time that is needed to respond to a request for information.
- (e) The official custodian may waive any cost or fee charged under this subtitle if a waiver is requested and the official custodian determines that a waiver would be in the public interest. The official custodian shall consider, among other relevant factors, the ability of the requester to pay the cost or fee. (1970, ch. 698; 1978, ch. 1006; 1982, ch. 431; 1983, ch. 269.)

4A. Correction or amendment of personal records.

- (a) A person in interest may request in writing any State agency to correct or amend any personal records which that person believes are inaccurate or incomplete and which that person has a right to inspect pursuant to § 3, by filing a statement in writing which includes:
 - (1) The precise correction or amendment requested; and
 - (2) The reason therefor.

- (b) Within 30 days after receiving a request pursuant to subsection (a), the agency shall:
 - (1) Make the requested correction or amendment and inform the person in interest of the action; or
 - (2) Inform the person in interest in writing of:
 - (i) The agency's refusal to make the requested correction or amendment; and
 - (ii) The reason for the refusal.
 - (c) If the final determination of a request pursuant to paragraph (a) is to refuse to make the requested correction or amendment, the person in interest may file with the agency a concise statement, not exceeding 5 pages, of:
 - (1) The reasons for the requested correction or amendment; and
 - (2) The reasons for disagreement with the agency's refusal to make the correction or amendment.
 - (d) When an agency discloses to a third party information from personal records about which a statement has been filed under subsection (c) of this section, the agency shall furnish a copy of the statement to the third party. (1983, ch. 252.)
5. Administrative review; judicial enforcement; civil liability; personnel disciplinary action; criminal liability; immunity from criminal or civil penalties.
- (a) Except in cases of temporary denials under § 3 (e) of this subtitle, any person who is denied, by an agency subject to the provisions of Subtitle 24 of Article 41 of this Code, (1) the right to inspect public records pursuant to § 3; (2) an amendment or correction requested pursuant to § 4A; or (3) the right to file a statement or have it forwarded pursuant to § 4A (c) or (d), may ask for an administrative review of this decision in accordance with §§ 251 through 254 of Article 41 of this Code. This remedy need not be exhausted prior to filing suit in the circuit court pursuant to this article.
 - (b) (1) On complaint of any person denied the right to inspect any record covered by this article, the circuit court in the jurisdiction in which the complainant resides, or has his principal place of business, or in which the records are situated, has jurisdiction to enjoin the State, any county, municipality, or political subdivision, any agency, official or employee thereof, from withholding records and to order the production

of any records improperly withheld from the complainant. In such a case, the court may examine the contents of the records in camera to determine whether the records or any part thereof may be withheld under any of the exemptions set forth in § 3, and the burden is on the defendant to sustain its action. In carrying this burden the defendant may submit to the court for review a memorandum justifying the withholding of the records.

- (2) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within 30 days after service upon the defendant of the pleading in which the complaint is made, unless the court otherwise directs for good cause shown.
 - (3) Except as to cases the court considers of greater importance, proceedings before the court, as authorized by this section, and appeals therefrom shall take precedence on the docket over all other cases and shall be heard at the earliest practicable date and expedited in every way.
 - (4) In addition to any other relief which may be granted to a complainant, in any suit brought under the provisions of this section in which the court determines that the defendant has knowingly and willfully failed to disclose or fully disclose records and information to any person who, under this article, is entitled to receive it, and the defendant knew or should have known that the person was entitled to receive it, any defendant governmental entity or entities shall be liable to the complainant in an amount equal to the sum of the actual damages sustained by the individual as a result of the refusal or failure and such punitive damages as the court deems appropriate.
 - (5) In the event of noncompliance with an order of the court, the court may punish the responsible employee for contempt.
 - (6) The court may assess against any defendant governmental entity or entities reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the court determines that the applicant has substantially prevailed.
- (c) Whenever the court orders the production of any records improperly withheld from the applicant, and in addition, finds that the custodian acted arbitrarily or capriciously in withholding the public record, the court shall forward a certified copy of its finding to the appointing authority of the custodian. Upon receipt thereof, the appointing authority shall,

after appropriate investigation, take such disciplinary action as is warranted under the circumstances.

- (d) An officer or employee of a governmental agency subject to this article, a researcher, or any other person who willfully and knowingly violates any provision of this article through disclosure, access, or use of personal records, as defined in § 5A of this article, is liable to the subjects of the personal records for any actual damages sustained by the subjects by the unlawful disclosure, access, or use of the personal records and such punitive damages as the court deems appropriate. The court may assess against any defendant reasonable attorney fees and other litigation costs reasonably incurred when the court determines that the applicant has prevailed substantially.
- (e)
 - (1) Any person who willfully and knowingly violates the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000.
 - (2) A person who, by false pretenses, bribery, or theft, gains access to or obtains in violation of this article a copy of any personal records whose disclosure is prohibited to him is guilty of a misdemeanor and, on conviction, shall be punished by a fine not to exceed \$1,000.
- f) Criminal or civil penalties may not be imposed upon a custodian who transfers or discloses the content of any public record to the Attorney General as provided in the *employee disclosure and confidentiality protection* subtitle of Article 64A. (1970, ch. 698; 1971, ch. 611; 1978, ch. 1006; 1980, ch. 850; 1982, ch. 431; 1983, chs. 8, 252.)