Introduction
The Maricopa County Community College District (MCCCD) is subject to the State’s broad public records law, obligating it to produce records under a public records request and to retain those records in a consistent manner throughout MCCCD.

That same expectation of consistency in public records production, retention and disposal applies to records that are requested through a subpoena, warrant, judicial or administrative order, litigation discovery document or as part of an MCCCD grievance, investigation or review. So, while MCCCD is composed of 10 colleges, two skill centers, several centers and the District Office, its ability to retrieve, disclose and retain public records must be subject to a single set of standards and one process.

Centralized Authority
Under this administrative regulation, the authority to manage MCCCD public records is centralized in the Manager of the Office of Public Stewardship (Manager). This authority extends to responding to or overseeing the response to public records requests in compliance with State law and establishing standards for the retention, retrieval, disclosure and disposal of public records.

The authority also extends to having access to the electronic records of an MCCCD employee or a Governing Board member under the procedures and narrow circumstances specified in this regulation. Under those circumstances and procedures, the Manager and the Vice Chancellor of Information Technology or his designee/supervisee are authorized to access those electronic records using third-party technology tools that MCCCD has purchased. The Vice Chancellor may, after conferring with the Manager and General Counsel, authorize access on a case-by-case basis to a non-District Office information technology employee on the request of the College President who supervises that employee justifying the need for access, the scope of the access, and the duration that access is needed.

Public Records Generally
Under Arizona’s public records law, MCCCD must make records in its custody open for public inspection by any person, and to provide any person with copies on request. That mandate includes records that reside in electronic form. MCCCD also must preserve those records according to the standardized retention and disposition schedules approved by the Arizona State Library, Archives and Public Records applicable to Arizona Community Colleges and Districts (Retention Schedule). See Arizona Revised Statutes §§39-121 et seq.

MCCCD employees and Governing Board members should presume that all work-related records that they produce during work hours as well as communications and attachments sent or received electronically in the performance of duties relating to MCCCD (whether through an MCCCD technology resource or other technology resource) are public records. The MCCCD General Counsel and the Manager will make the final determination of whether something is a public record or not under the law.

Individual Employees’ and Governing Board Members’ Responsibility to Comply
Arizona State Library, Archives and Public Records places the responsibility to manage public records in compliance with the law on the individual MCCCD employee or Governing Board member. It does not matter whether the record is in paper or electronic form. The responsibility is the same—on the individual.

Where a record is only in electronic form and resides within MCCCD’s technology resources, an electronic record that an employee deletes may still be retained through the normal operation of
those resources. However, the law as interpreted by the Arizona State Library, Archives and Public Records does not place primary responsibility for retention of those records on MCCCD technology resources. The primary responsibility for managing each individual employee’s or Governing Board member’s electronic records is squarely on that employee or member. The Arizona State Library, Archives and Public Records has made that clear despite potential practical barriers to easy compliance, such as a limitations on memory within an MCCCD employee’s computer.

Note that it is a violation of MCCCD’s Administrative Regulation 4.4, “Technology Resource Standards,” for an employee to delete or alter an electronic public record in violation of public records retention requirements, or in anticipation of receiving or after receipt of a public records request, subpoena, a request for records as part of an MCCCD grievance, investigation or review, or other lawful request for the record.

The standards for retaining and disposing of records are discussed in more detail under the next section of this regulation.

Understanding and Applying Record Retention and Disposal Standards
The official Retention Schedule is available at: http://www.azlibrary.gov/arm/retention-schedules

The Arizona State Library, Archives and Public Records’ “rule of thumb” places public records into four categories based on their content: administrative, legal, fiscal research, or historical. Records of historical value must be retained permanently. For records in the other three categories, the length of time that the record must be maintained and then disposed of varies. Additionally, the description of the types of records in the Retention Schedule is by general subject matter (such as “EEO/Affirmative Action” or “Fiscal/Business Operations”), and not by the descriptor “administrative,” “legal” or “fiscal research.” A single record may have content that places it under more than one category with differing retention requirements. In those cases, the employee or Governing Board member should keep it for the longest duration specified in the Retention Schedule.

The Retention Schedule requires public employees and officers to maintain electronic records in their original form. A paper copy of the electronic record does not comply with the standards in the Retention Schedule. All public employees and governing board members, including those for MCCCD, have an obligation to retain electronic records even when they are leaving public employment or as a member of a public governing board.

Information is available on MCCCD’s Public Records website to assist employees and Governing Board members in making retention determinations. See https://chancellor.maricopa.edu/public-stewardship/records-information/records-retention-and-disposition-schedules-for. If an employee or Governing Board member has questions about the time period for which a record should be retained, he or she may contact the Manager for assistance.

The policy of Maricopa is to use its best efforts to comply with the Retention Schedule in a consistent and systematic manner. Compliance requires cooperation and diligence, particularly when it comes to retention of electronic records. The daily volume of electronic records produced, the speed in which they are created and sent, and the storage limitations on MCCCD servers make adhering to the Retention Schedule complicated.

For electronic records, this administrative regulation recommends a general retention/disposal standard for employees and Governing Board members of one year from the creation or receipt of the record. During that time, the employee or Governing Board member is encouraged to
review the Retention Schedule to determine if a shorter or longer period of time is required. If the employee or Governing Board member believes that retention beyond a year is required, he or she may forward the electronic record to the following website: [URL to be inserted].

Finally, MCCCD employees and Governing Board members are reminded not to retain records beyond the period of time that the Retention Schedule requires.

**District Office and College Records Officers**

To implement the standards specified in this administrative regulation, each College President shall appoint a Records Officer from among the College's Vice Presidents to coordinate public records requests, subpoenas, warrants, judicial or administrative orders, litigation discovery documents, or records as part of a grievance, investigation or review (collectively, “requests”) with the Manager. The Records Officer shall notify the Manager of records requests made directly to the College and be responsible for preparing a response plan for records residing at the College. The plan should include determining the possible location of the records, College staff to assist with the search and retrieval of the records, the scope of the search, the need for search confidentiality and a projected completion date for the search. For records requests that are initiated through the Manager’s office or that seek records at more than one College, the Records Officer shall develop the plan with the Manager. The Manager shall serve as the Records Officer for the District Office.

The Manager will maintain a list of records requests. Either the Manager or the Records Officer shall, to the extent practicable, keep a copy of the entire set of records produced pursuant to a request.

MCCCD employees or Governing Board members who seek access to MCCCD public records for reasons other than MCCCD business shall be required to submit a public records request as though they are an outside party.

**Timeliness of Request Response**

Arizona's Public Records Law states that "[t]he custodian of [public] records shall promptly furnish such copies..." See Arizona Revised Statutes §39-121.01-D-1. The Records Officer and, where applicable, the Manager shall be responsible for determining a reasonable date by which the search and copying of documents should be complete, based on criteria such as the size and scope of the request and the availability of staff to conduct those activities. However, it is the policy of MCCCD to proceed with due diligence to accommodate requests as quickly as circumstances permit and, in the case of public records requests, subpoenas, warrants and discovery documents, to comply with the time standards specified in the law, by law enforcement, by judicial order, or by rules of court. An MCCCD employee or Governing Board member who believes that a timeline established by the Records Officer and the Manager is unreasonable shall immediately advise them in writing of the reasons and recommend an alternative plan for review by the Records Officer and the Manager.

**Record Holds**

The Chancellor, Manager or General Counsel may direct that some or all MCCCD employees and Governing Board members place a hold on deleting records relating to particular subjects or issues. Once the Chancellor issues that directive, employees and Governing Board members are prohibited from deleting or altering the records that are subject to the hold until the Chancellor, Manager or General Counsel advises that the hold is lifted. Situations in which holds are likely to occur include but are not limited to litigation involving MCCCD and law enforcement investigations.

**Access to Electronic Records**
Investigative Access. There are circumstances under which the General Counsel, the Manager or a College President needs to have access to an employee’s e-mail communications or other electronic records without advising the employee. Those situations generally occur when: MCCCD is served with a subpoena, a warrant, or judicial order that requires confidentiality; confidentiality is directed by a law enforcement agency; or the employee is subject of an MCCCD grievance, investigation or review that the Manager determines, after initial review, requires access.

If a College President believes that he or she needs access to an employee’s e-mail communications or other electronic records, the President shall discuss the matter with the Manager. Only the Manager may request, and only the General Counsel or an Assistant General Counsel acting in the General Counsel’s absence may authorize, access to an employee’s e-mail and electronic records for investigative purposes. Authorization shall be in writing and define the scope of the access required to conduct the review. As specified in the section of this administrative regulation entitled “Standard for Search Capabilities Regarding Electronic Records,” each College’s e-mail system shall authorize the Manager and the Vice Chancellor of Information Technology or his or her designee/supervisee to have direct access to conduct a search without the need to rely on the information technology staff of the College. The standards for search capabilities shall apply regardless of the centralized ability of the Manager and the Vice Chancellor to conduct a search as described in the section under this administrative regulation entitled “Centralized Authority.”

If the requirement for confidentiality is removed, the Manager may but is not obligated to advise the employee that his or her e-mails or other electronic records were accessed. An employee who believes that his or her e-mail or electronic records were illegally accessed shall notify the General Counsel in writing of the reasons. The General Counsel’s determination regarding the legality of access shall be conclusive.

Operational Access. There may be operational circumstances that require access to an MCCCD employee’s electronic records in the absence of the employee, such as when the employee is on vacation or ill. Like paper documents on an employee’s desk or files, electronic records belong to MCCCD and need to be available for business purposes. In those instances, the College President or the Chancellor shall complete the form available at Appendix AS-13 and submit it for approval to the Vice Chancellor for Information Technology or his or her designee for approval. The College President shall provide a copy of the approved form to the employee whose electronic records were accessed.

Access to Former Employees’ Records. All records should be maintained according to value and the respective retention schedule. An employee who resigns or retires from his or her position at MCCCD shall contact his/her direct supervisor about preserving his or her electronic records before his or her departure. Those records shall be transferred to a storage device and provided to the supervisor.

Standard for Search Capabilities Regarding Electronic Records
All electronic records systems serving Maricopa shall be capable of doing the following, which are minimum standards for access:

- Automated archival process for messages and documents sent and received with the capability of implementing different archiving standards by type of record as specified in the retention and disposition schedules approved by the Arizona State Library, Archives and Public Records.
- Destruction according to that same retention schedule (life cycle of item per schedule)
4.15 retrieval, disclosure and retention of records (cont’d)

- Capability to search for words or terms within headers and message or document text,
- Assurance that messages and other records cannot be changed or deleted (message integrity)
- Access to the Manager and the District Office’s Information Technology Department to search, retrieve and delete under the circumstances specified in this administrative regulation
- Audit to determine who logs in, searches, retrieves, deletes
- Capacity, longevity, security, recovery
- Ability of MCCC to maintain ownership of the records
- Ability to place holds on records subject to a request
- Pull records within a reasonable period of time after the initiation of the search command
- Restore records in their original format and to the individual level, with restoration occurring ______ minutes of the initiation of the restore command
- Preservation of past records and well as new ones when switching to a different communications system

The Chancellor or the Chancellor’s designee shall have the authority to approve an electronic records system that does not have one or several of the capabilities specified above when the unique needs of a Maricopa entity require use of that system, and safeguards are in place to assure that use of the system will permit the recording and retrieval of records as required by law.

Requests for Copies
A Maricopa employee may request that electronic communications created by him or her or written directly to him or her be restored from backup in the case of a hardware or system failure where the electronic record has passed through the District Office’s server. All such requests must be reviewed and authorized by the General Counsel.

After review and authorization by the General Counsel, requests for copies of electronic communications will be forwarded to ITS security services. ITS security services will comply with the request and coordinate retrieval of the information within seven business days.

AMENDED through the Administrative Regulation approval process, June 27, 2011
ADOPTED through the Administrative Regulation approval process, February 24, 2004