



Category
<b>USA PATRIOT ACT COMPLIANCE– 1:08:10:04</b>
Approval
<b>Leadership Council Approved:</b> January 12, 2009
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<b>Responsible Party:</b> Vice President for Student Affairs

**I. INTRODUCTON AND STATUTORY BASIS**

- A. The PATRIOT Act (Public Law 107-56 (2001)) is designed to broaden the surveillance of law enforcement agencies to enhance the detection and suppression of terrorism.
- B. Under the provisions of this Act, it is the duty of this College to provide information, records, documents, and other information to law enforcement agencies under the authority of a valid court order, subpoena or other authority.
- C. The records obtainable by law enforcement under the Act include, *inter alia*, records of borrowed print material from the College library, records of Internet site access, electronic mail communication records, and telephone records. The Act also authorizes the installation of electronic monitoring devices to assess computer and telephone usage.

**II. STATEMENT OF POLICY**

- A. While Higher Education has historically supported freedom of expression and all other forms of personal freedom, it is the policy of this College to comply fully with the PATRIOT Act in the suppression of terrorism.
- B. Inasmuch as the PATRIOT Act concerns matters potentially affecting the life and death of American citizens and whereas this College is a State of Tennessee entity and further whereas the State of Tennessee is part of the Union that comprises the United States of America, it is the stated policy of this College that official requests under the authority of the PATRIOT Act will be complied with promptly, fully, and completely.

**III. UPON RECEIPT OF A WRITTEN REQUEST**

- A. Although the PATRIOT Act envisions a law enforcement official arriving in person on the campus with a request in hand, it is possible that employees of the College may receive in the course of their daily activities a written request for the production of records under the Act.
- B. The Director of Public Safety is the single point of contact for *all* requests under this Act. Any employee receiving a PATRIOT Act request will immediately forward (hand carry) the request to the Director of Public Safety. The Director of Public Safety is located in the Marcum Technology Building and can be reached at extension 1737.

- C. Upon receipt of a written request, the Director of Public Safety will immediately establish telephone contact with the Office of General Counsel, Tennessee Board of Regents at (615)366-4438, and simultaneously fax to the General Counsel at (615) 366-3910, a copy of the request for records. In case the request requires any action on the part of law enforcement apart from the production of records, the Director of Public Safety will notify the appropriate agency.
- D. In consultation with General Counsel, Director of Public Safety will determine how best to provide the requested records. The Director of Public Safety shall have no authority to refuse any request under the Act. Refusal is reserved to the Office of General Counsel and to the Board of Regents exclusively.
- E. Once the request has been complied with, the Office of the President will receive a report detailing the contents of the request and the complete nature of the response. In the event of non-compliance upon the advice of the Office of General Counsel, the Office of General Counsel is requested to provide a report of its action on the request to the Office of the President who will distribute copies of the report to the Director of Public Safety. Such reports are subject to limitation if there is a "gag" order in connection with the request for records.

#### **IV. UPON ARRIVAL OF A LAW ENFORCEMENT OFFICER**

- A. The more likely scenario under the PATRIOT ACT is the arrival of a law enforcement official, most probably federal, on the campus with a request in hand. Such a request might be in the form of a subpoena for records, a search warrant, or other request for the production of records or for access to telephone or computer equipment for the purpose of attaching electronic monitoring equipment.
- B. Any employee who encounters a law enforcement official on the campus in connection with a request for records or access under the PATRIOT Act will immediately escort the official to the Office of the Director of Public Safety Marcum Technology Building
- C. The Director of Public Safety will immediately establish telephone contact with the Office of General Counsel, Tennessee Board of Regents, at (615) 366-4438, and simultaneously fax to the General Counsel at (615) 366-3910, a copy of the request for records.
- D. In consultation with the Office of General Counsel, the Director of Public Safety will determine how best to provide the requested records. The Director of Public Safety shall have no authority to refuse any request under the Act. Refusal is reserved to the Office of General Counsel and to the Board of Regents exclusively.
- E. Once the request has been complied with, the Office of the President will receive a report detailing the contents of the request and the complete nature of the response. In the event of non-compliance upon the advice of the Office of General Counsel, the Office of the General Counsel is requested to provide a report of its action on the request to the Office of the President who will distribute copies of the report to the Director of Public Safety. Such reports are subject to limitation if there is a "gag" order in connection with the request.

#### **V. CONFIDENTIALITY REQUIREMENTS**

- A. All employees involved in the processing of requests for records under the provisions of the USA PATRIOT Act are required to maintain the confidentiality of such requests made by law enforcement officers. Specifically, if a search warrant contains a "gag" order [an instruction to the employee not to discuss the matter that is the subject of the request for records], even so much as a disclosure of the very existence of the request is forbidden. It is therefore required that all employees maintain the strict confidentiality of any interaction with law enforcement officials and / or any knowledge of court orders pertaining to requests for records under the USA PATRIOT Act.

- B. The only exception to this rule of confidentiality is a legitimate disclosure on a need to know basis to those directly involved in responding to a request for records under this Act. Such disclosures will be coordinated with the Office of General Counsel.

## **VI. EDUCATION REQUIREMENTS**

- A. In order to ensure that all employees are cognizant of this policy, all employees must read, understand, and comply with the requirements set forth herein. This Policy Statement is published on the College Web Site at <http://www.mscc.edu>.
- B. The Executive Director of Human Resources will provide a copy of this policy to all new hires prior to employment when signing contracts of employment and to all adjunct instructors.

## **VII. REPORTING REQUIREMENTS**

- A. The Director of Public Safety will prepare a report to the President annually on August 1<sup>st</sup>, consisting of the following:
  - 1. The number of documentary requests received under the authority of the USA PATRIOT Act with action thereon taken, excluding any reference to documentary requests accompanied by a “gag” order preventing the disclosure of the existence of the court order and / or any documentation provided in compliance therewith.
  - 2. The number of requests received from the hands of law enforcement personnel together with the action thereon taken, subject to the same confidentiality requirements immediately above.
  - 3. In the event there are no requests received either in the form of a document or from the hands of a law enforcement official, a negative report is not required.
  - 4. This report will be forwarded to the Office of General Counsel, Tennessee Board of Regents.