

5. Name of Person to Call About this Document

Ross Goldstein

Telephone No.

410-706-2085

Email Address

ross.goldstein@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

 Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Dawn O'Croinin, Assistant Attorney General, (telephone #410-706-1092) on 7/21/2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Ross Goldstein

Title

Telephone No.

Executive Director

410-706-2085

Date

7/23/2014

Title 14 INDEPENDENT AGENCIES

Subtitle 36 MARYLAND LONGITUDINAL DATA SYSTEM CENTER

14.36.01 Inspection and Copying of Records

Subtitle 36 MARYLAND LONGITUDINAL DATA SYSTEM CENTER

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Subtitle 36 MARYLAND LONGITUDINAL DATA SYSTEM CENTER

14.36.02 Corrections of Public Record

Subtitle 36 MARYLAND LONGITUDINAL DATA SYSTEM CENTER

14.36.03 Meetings

Subtitle 36 MARYLAND LONGITUDINAL DATA SYSTEM CENTER

14.36.04 Longitudinal Data Requests

Authority: Education Article, §§24-703, 24-706; State Government Article, §§10-611, 10-612, 10-613(b), 10-615(2)(i), 10-621 and 10-625; Annotated Code of Maryland. Education Article, §24-706; State Government Article, §10-611 - §10-628, and State Government, Title 10, Subtitle 2, Annotated Code of Maryland. Education Article, §24-706; State Government Article, Title 10, Subtitle 5; Annotated Code of Maryland. Education Article, §24-701, §24-703, §24-706; State Government Article, Title 10, Subtitle 6; and Labor & Employment Article §8-625; Annotated Code of Maryland.

Notice of Proposed Action

[]

The Maryland Longitudinal Data System Governing Board proposes to adopt Chapters 01 - 04 under Subtitle 14.36 Maryland Longitudinal Data System Center

This action was considered by the Maryland Longitudinal Data System Governing Board at an open meeting held on June 13, 2014, notice of which was given by publication on the MLDS website pursuant to State Government Article, § 10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to establish procedures to ensure that the Maryland Longitudinal Data System Center properly implements and complies with the requirements for access to public records, correction of public records, and open meetings. This action also establish procedures for responding to requests for longitudinal data.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The proposed action may have a minor economic impact on persons seeking longitudinal data from the MLDS Center. The impact will be minor since the fees will be reasonable and the number of inquiries from any one person will be minimal.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
MLDS Center	(R+)	Minor
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(-)	Minimal

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The MLDS Center may realize a minor increase in revenue through the fees associated with supplying longitudinal data to requestors.

F. The public, including private citizens and educational or research institutions, will bear the cost of longitudinal data requests. The impact is minor because fees will be reasonable and the number of requests from any one person institution will be minimal.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Ross Goldstein, Executive Director, Maryland Longitudinal Data System Center, 525 West Redwood Street, Baltimore, MD 21201, or call 410-706-2085, or email to ross.goldstein@maryland.gov, or fax to . Comments will be accepted through September 5, 2014. A public hearing will be held, September 12, 2014 - MLDS Governing Board Meeting - 10 a.m. at the Nancy S. Grasmick Building, 200 West Baltimore Street, Baltimore, MD 21201.

Open Meeting

Final action on the proposal will be considered by the MLDS Governing Board during a public meeting to be held on September 12, 2014 at 10 a.m., at Nancy Grasmick Building, 200 West Baltimore Street, 7th Floor, Board Room.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 15

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

There is no additional cost to the agency to implement these regulations.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations have no economic impact on small businesses since the data requests will primarily come from educational and research institutions.

G. Small Business Worksheet:

Title 14 – Independent Agencies

Subtitle 36 – Maryland Longitudinal Data System Center

Chapter 01 – Inspection and Copying of Public Records

Authority: Education Article, §§24-703, 24-706; State Government Article, §§10-611, 10-612, 10-613(b), 10-615(2)(i), 10-621 and 10-625; Annotated Code of Maryland.

.01 Purpose.

This chapter sets forth procedures for the disclosure, inspection, or copying of public records maintained by the Maryland Longitudinal Data System Center. The procedures for data requests by the public from data maintained by the Maryland Longitudinal Data System Center are set forth in Chapter 04 – Longitudinal Data Requests.

.02 Policy.

It is the policy of the Maryland Longitudinal Data System Center to facilitate public access to the Center's public records when access is authorized by law.

.03 Definitions.

A. In this Chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Act" means the Public Information Act, State Government Article, §§10-611 through 10-628, Annotated Code of Maryland.

(2) "Applicant" has the meaning stated in State Government Article, §10-611(b), Annotated Code of Maryland.

(3) "Center" means the Maryland Longitudinal Data System Center, its advisory councils, its committees, any other public bodies under the authority and acting on behalf of the Maryland Longitudinal Data System Center, and any employees, agents, or contractors acting on behalf of the Center.

(4) "Custodian" has the meaning stated in State Government Article, §10-611(c), Annotated Code of Maryland.

(5) "Executive Director" means the Executive Director of the Maryland Longitudinal Data System Center.

(6) "Official custodian" has the meaning stated in State Government Article, §10-611(d), Annotated Code of Maryland.

(7) "Person in interest" means a person or governmental unit that is the subject of a public record, or an authorized designee of the person or governmental unit, or, if the person has a legal disability, a parent or legal representative of the person.

(8) (a) "Public record" has the meaning stated in State Government Article, §10-611(g), Annotated Code of Maryland.

(b) "Public record" does not include data sets that are created and generated by the Center to respond to a longitudinal data request pursuant to Education Article, § 24-703(f)(6).

(9) "Working day" means a day other than Saturday, Sunday, or a State holiday or service reduction day.

.04 Official Custodian.

A. The Executive Director shall designate an official custodian of public records for the Center.

B. The website for the Center shall provide the name and contact information for the custodian of public records.

.05 Who May Request Public Records.

Any person may request to inspect or copy public records of the Center.

.06 Necessity for Written Request.

A. Inspection.

(1) Except as otherwise provided in this chapter, the custodian shall make public records of the Center available for inspection by an applicant without demanding a written request.

(2) The custodian shall require a written request if the custodian reasonably believes that:

(a) The Act or any other law may prohibit the disclosure of the public record to the applicant; or

(b) A written request will materially assist the Center in responding.

B. Copies. If the applicant requests a copy of any public record of the Center, the custodian may require a written request.

.07 Contents of Written Request.

A written request shall:

A. Contain the applicant's name and address;

B. Be signed by the applicant; and

C. Reasonably identify, by brief description, the public record sought.

.08 Addressee.

A request to inspect or copy a public record shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Executive Director.

.09 Response to Request.

A. If the custodian decides to grant a request for inspection, the custodian shall produce the public record for inspection without unreasonable delay.

(1) Immediately for records designated by the Center for inspection, set forth in § B of this regulation; or

(2) If additional time is needed to retrieve the public record and conduct any necessary review, within a reasonable time period, not to exceed 30 days after the date of the request.

B. The custodian designates the following public records for immediate inspection:

(1) Bylaws of the Governing Board;

(2) Minutes of the Governing Board;

(3) Data Sharing Agreements entered into by the Center and the Maryland State Department of Education, the Maryland Higher Education Commission and the Maryland Department of Labor, Licensing and Regulation; and

(4) The Data Safeguarding and Security Plan.

C. If the custodian decides to deny a request for inspection, the custodian shall:

(1) Do so within 30 days after the request; and

(2) Immediately notify the applicant of the denial.

D. If a request is denied, the custodian shall provide the applicant, at the time of the denial or within 10 working days, a written statement that gives:

(1) The reason for the denial;

(2) The legal authority for the denial; and

(3) Notice of the remedies available for review of the denial.

E. If a requested public record is not in the custody or control of the custodian to whom application is made, the custodian shall, within 10 working days after receipt of the request, notify the applicant:

(1) That the custodian does not have custody or control of the requested public record; and

(2) If the custodian knows:

(a) The name of the custodian of the public record; and

(b) The location or possible location of the public record.

F. With the consent of the applicant, any time limit imposed by §§A-C of this regulation may be extended for an additional period of up to 30 days.

.10 Notice to Person Possibly Affected by Disclosure.

A. Unless prohibited by law, the custodian may provide notice of a request for inspection or copying of any public record of the Center to any person, who in the judgment of the custodian, could be adversely affected by disclosure of the public record.

B. The custodian may consider the views of the possibly affected person before deciding whether to disclose the public record to an applicant.

.11 Public Record Temporarily Unavailable.

If a requested public record of the Center is in the custody and control of the person to whom the application is made but is not immediately available for inspection or copying, the custodian shall promptly:

A. Notify the applicant that the public record is not immediately available; and

B. Schedule a date within a reasonable time for inspection or copying.

.12 Public Record Destroyed or Lost.

If the custodian knows that a requested public record of the Center has been destroyed or lost, the custodian shall promptly:

A. Notify the applicant that the public record is not available; and

B. Explain the reasons why the public record cannot be produced.

.13 Review of Denial

A. If the custodian denies a request to inspect or copy a public record of the Office, the applicant may, within 30 days after receipt of the notice of denial request administrative review.

B. If the applicant requests administrative review:

(1) The review shall be governed by State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland; and

(2) The Executive Director shall issue the final decision of the Center unless the Executive Director delegates the final decision authority.

C. If the review results in a total or partial denial of the request, the applicant may file an appropriate action in the circuit court under State Government Article, §10-623, Annotated Code of Maryland.

D. If the applicant does not request administrative review, the applicant may file an action for judicial enforcement under State Government Article, §10-623, Annotated Code of Maryland, without exhausting the administrative remedy.

E. This regulation does not apply if the Center denies inspection under State Government Article, §10-619, Annotated Code of Maryland.

.14 Disclosure Against Public Interest.

A. Denial Pending Court Order.

(1) If, in the opinion of the Executive Director, disclosure of a public record of the Center otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Executive Director may temporarily deny the request to obtain a court order allowing nondisclosure.

(2) A temporary denial shall be in writing.

B. Circuit Court Review.

(1) Within 10 working days after the denial, the Executive Director shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.

(2) Notice of the Executive Director's complaint, on behalf of the Center, shall be served on the applicant in the manner provided for service of process under the Maryland Rules.

.15 Fees.

A. Except as provided in §§ B and C of this regulation, the fee schedule for copying and certifying copies of public records of the Center is as follows:

(1) For each copy made by a photocopying machine within the Center, 25 cents per page;

(2) For each copy made other than by a photocopying machine within the Center, the actual cost of reproduction;

and

(3) For certification as a true copy of a copy of a public record, an additional fee of \$1 per page, or if appropriate, per item.

B. Minimum Fee. A charge may not be made if the total fee is \$1 or less.

C. If the fee for copies or certified copies of any public record of the Center is specifically set by a law other than the Act or this regulation, the custodian shall charge the prescribed fee.

D. If the custodian cannot copy a public record within the Center, the custodian shall make arrangements for the prompt reproduction of the record at public or private facilities outside the Center. The custodian shall:

(1) Collect from the applicant a fee to cover the actual cost of reproduction; or

(2) Direct the applicant to pay the cost of reproduction directly to the facility making the copy.

E. Before copying a public record of the Center, the custodian shall estimate the cost of reproduction and either:

(1) Obtain the agreement of the applicant to pay the cost; or

(2) Require prepayment of the cost.

F. Except as provided in §G of this regulation the custodian may charge a reasonable fee for time that an official or employee of the Center spends to:

(1) Search for requested public records; or

(2) Prepare public records for inspection and copying.

G. The custodian may not charge a search or preparation fee for the first 2 hours that an official or employee of the Center spends to respond to a request for public records.

H. The Center may charge a reasonable hourly fee based upon the actual cost to the Center for staff services for additional time required to search for or prepare public records for inspection or copying.

I. Waiver or Reduction of Fee.

(1) The custodian may waive or reduce any fee under this regulation if:

(a) The applicant requests a waiver; and

(b) The custodian determines that the waiver or reduction is in the public interest.

(2) In making a decision under this section, the custodian shall consider, among other relevant factors, the ability of the applicant to pay the fee.

J. If the applicant requests that copies of a public record be mailed or delivered to the applicant or to a third party, the custodian may charge the applicant for the actual cost of postage or delivery, and the cost of any electronic media used to provide the copies.

.16 Time and Place of Inspection.

A. An applicant may inspect any public record of the Center that the applicant is entitled to inspect during the normal working hours of the Center.

B. The inspection shall occur where the public record is located, unless the custodian, after taking into account the applicant's expressed wish, determines that another place is more suitable and convenient.

Title 14 – INDEPENDENT AGENCIES

Subtitle 36 – Maryland Longitudinal Data System Center

Chapter 02 – Corrections of Public Record.

Authority: Education Article, §24-706; State Government Article, §10-611 - §10-628, and State Government, Title 10, Subtitle 2, Annotated Code of Maryland.

.01 Scope.

This chapter sets out procedures under which a person in interest may request the correction or amendment of public records of the Maryland Longitudinal Data System Center.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Act” means the Public Information Act, State Government Article, §§10-611-10-628, Annotated Code of Maryland.

(2) “Custodian” has the meaning stated in State Government Article, §10-611(c), Annotated Code of Maryland.

(3) “Center” means the Maryland Longitudinal Data System Center.

(4) “Person in interest” has the meaning stated in State Government Article, §10-611(f), Annotated Code of Maryland.

(5) “Public record” has the meaning stated in State Government Article, §10-611(h), Annotated Code of Maryland.

.03 Who May Request.

A person in interest may request that the Center correct or amend any public record that:

A. The Center created and maintains; and

B. The person in interest is authorized to inspect.

.04 Contents of Request.

A. A person in interest shall make a request to correct or amend a public record in writing.

B. The request shall:

(1) Identify the public record to be corrected or amended;

(2) State the precise correction or amendment requested;

(3) State the reason for the correction or amendment; and

(4) Include a statement that, to the best of the requester’s belief, the public record is inaccurate or incomplete.

.05 Addressee.

A request to correct or amend a public record shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Executive Director.

.06 Return of Nonconforming Request.

A. The Center shall accept a request to correct or amend a public record when it is received if it reasonably complies with Regulations .04 and .05 of this chapter.

B. If the request does not reasonably comply with Regulations .04 and .05 of this chapter, the Center shall return the request to the requestor with:

(1) An explanation of the reason for the return; and

(2) A statement that, on receipt of a request that reasonably complies with Regulations .04 and .05 of this chapter, the request will be accepted.

.07 Response to Request.

Within 30 days after the Center receives a request for correction or amendment that reasonably complies with Regulations .04 and .05 of this chapter, the custodian shall:

A. Make the requested correction or amendment, and inform the requester in writing of the action; or

B. Inform the requester in writing that the Center will not:

(1) Make the requested correction or amendment, and the reason for the refusal; or

(2) Act on the request because:

(a) The requester is not a person in interest;

(b) The requester is not authorized to inspect the record; or

(c) Of any other reason authorized by law.

.08 Response to Refusal of Request – Statement of Disagreement.

If the Center refuses to make a requested correction or amendment, a person in interest may file with the Center a concise statement of the reasons for:

- A. The requested correction or amendment; and
- B. The person's disagreement with the refusal of the Center to make the correction or amendment.

.09 Requirements for Statement of Disagreement.

The statement submitted under Regulation .08 of this chapter shall:

- A. Be on pages not larger than 8-1/2 x 11 inches;
- B. Use only one side of each page; and
- C. Consist of not more than five pages.

.10 Disclosure of Statement of Disagreement.

If a person in interest files a statement of disagreement concerning a public record under Regulations .08 and .09 of this chapter, the Center shall provide a copy of the statement whenever the Center discloses the public record to a third party.

.11 Administrative Review.

A. A person may request administrative review under this regulation if the Center:

- (1) Has refused the person's request to correct or amend a public record under Regulation .07 of this chapter;
- (2) Has rejected the person's statement of disagreement under Regulation .08 of this chapter; or
- (3) Has not provided a statement of disagreement to a third party under Regulation .10 of this chapter.

B. A request for review shall be filed with the Executive Director of the Center within 30 days after the requester is advised of the Center's action.

C. The review proceedings shall be conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

Title 14 – INDEPENDENT AGENCIES

Subtitle 36 – Maryland Longitudinal Data System Center

Chapter 03 – Meetings

Authority: Education Article, §24-706; State Government Article, Title 10, Subtitle 5; Annotated Code of Maryland.

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Center” includes the Maryland Longitudinal Data System Center, its Governing Board, its committees, and any other public bodies under the authority and acting on behalf of the Maryland Longitudinal Data System Center.

(2) “Open session” means a meeting of the Governing Board that is required to be open to the public pursuant to the Open Meetings Act, State Government Article, Title 10, Subtitle 5, Annotated Code of Maryland.

.02 Public Attendance.

A. The general public is invited to attend and observe any open sessions of the Center.

B. Meetings shall be held in a location that is reasonably accessible to individuals who would like to attend and observe an open session of a board.

C. A member of the public attending an open session may not participate in the session except as provided in the bylaws of the Governing Board.

.03 Public Participation Limited.

A member of the public attending an open session may not participate in the session except to the extent:

A. The Center expressly invites public testimony, questions, comments, or other forms of public participation; or

B. The person is entitled by law to participate.

.04 Disruptive Conduct.

A. An individual attending an open session may not engage in any conduct, including but not limited to visual demonstrations such as the display of placards, signs, or banners that disrupts the session or interferes with the right of members of the public to attend and observe the session.

B. Authority of the Presiding Officer.

(1) The presiding officer may order an individual who violates §A of this regulation, or who violates any other regulation or resolution concerning the conduct of the open session, to be removed from the session, and may request police assistance to restore order.

(2) The presiding officer may recess the session while order is restored.

C. An individual who is asked to leave the session in accordance with these regulations and who refuses to do so may be subject to arrest as provided by law.

.05 Recording, Photographing, and Broadcasting of Open Sessions.

A. A member of the public, including a representative of the news media, may:

(1) Record the discussions at an open session using a tape recorder or other recording device if the device used does not create excessive noise that disturbs the open session or other individuals attending the session;

(2) Photograph or videotape the proceedings of an open session using any type of camera if the camera is operated without excessively bright artificial light or excessive noise that disturbs the open session or other individuals attending the session.

B. A representative of the news media may broadcast or televise the open session if the equipment used is operated without excessively bright artificial light or excessive noise that disturbs the open session or other individuals attending the session.

C. The presiding officer may restrict the movement of an individual who is using a recording device, camera, or broadcasting or televising equipment if the restriction is necessary to maintain the orderly conduct of the open session.

D. A member of the public who intends to record the discussions at an open session shall provide written notice to the Executive Director of the Center in advance of the meeting advising of the intention to record the proceedings and specifying the type of equipment to be used to record the proceedings.

.06 Recordings Not Part of Record.

A recording of an open session made by a member of the public including a representative of the news media or any transcript derived from a recording is not a part of the record of the open session.

Title 14 – INDEPENDENT AGENCIES

Subtitle 36 – Maryland Longitudinal Data System Center

Chapter 04 – Longitudinal Data Requests.

Authority: Education Article, §24-701, §24-703, §24-706; State Government Article, Title 10, Subtitle 6; and Labor & Employment Article §8-625; Annotated Code of Maryland.

01. Scope.

This chapter governs data requests received by the Maryland Longitudinal Data System Center under Education Article, §24-703(f)(6) and (f)(7), Annotated Code of Maryland. The Maryland Longitudinal Data System Center was created to provide analytical information to policy makers, researchers, parents and students to guide education and workforce policy decisions and programs. Requests for longitudinal data from the Center should satisfy a similar purpose. All other public information requests shall be processed in accordance with State Government Article, Title 10, Subtitle 6 and Chapter 01 of this Subtitle.

.02 Applications — General.

A. Application Form. The application shall be made in writing, in the form required by the Executive Director of the Maryland Longitudinal Data System Center.

B. The application form shall be made available to the public on the Center website.

C. Options. The application form shall require at a minimum:

- (1) Name, title, mailing address, phone number and email address for each requestor;
- (2) The names, titles, mailing addresses, phone numbers and email addresses for any researchers working with the requestor;
- (3) Disclosure of the title of the research project for which the data request is being made;
- (4) Disclosure of whether or not the applicable research project is funded;
- (5) A summary of the research project, including but not limited to the research questions presented for evaluation by the project; and
- (6) The target dates for data collection, data analysis, report writing and report publication for the applicable research project.

.03 Applications — Required Affidavit.

The application shall contain an affidavit, signed by the applicant, in substantially the following form: Under the penalties of perjury, I declare that no part of any data set requested by this application will be used for commercial solicitation, marketing, or any form of financial gain.

.04 Time for Applying, Responding.

A. An application for a data request from the Center may be made at any time by any member of the public, or any State agency; and

B. The Executive Director of the Center, or staff member delegated as delegated by the Executive Director, shall provide the applicant with an acknowledgement of the receipt of the data request within 10 business days of receiving the application, and shall advise the applicant of the estimated time for completion of fulfillment of the data request and the estimated costs associated therewith within 30 days of receipt of the application.

.05 Fees.

A. By Whom Set. Reasonable fees for responding to data requests shall be set by the Executive Director and shall take into consideration the volume of requests, the complexity of responding to the request, the hourly staff time spent responding to the request and other associated expenses.

B. Deposit or Prepayment. The Executive Director, or a designated staff member, may require that an applicant provide a deposit or prepayment of all or part of the charges estimated for satisfying the data request prior to fulfillment of the request.

C. Waiver or Reduction. On an applicant's request, the Executive Director may waive or reduce any fee imposed under this chapter if, after considering the applicant's ability to pay and other relevant factors, including but not limited to the purpose specified for the data request, the Executive Director determines that a waiver or reduction of fees is in the public interest.

.06 Individual Records.

A. The Center receives data from the Maryland State Department of Education, Maryland Higher Education Commission, and Department of Labor, Licensing and Regulation in accordance with its mandated responsibilities as set forth in Education Article, §24-701, et seq.

B. Individual Student Records.

(1) The Center shall maintain education records that are incorporated into the Maryland Longitudinal Data System consistent with the protections established by the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, as amended, and its accompanying regulations, located at 34 CFR §99, as amended, which are incorporated by reference

(2) The Center shall use only de-identified aggregate data in its research and reporting as set forth in Education Article, §§24-703(f)(3) and 24-703(g)(3).

(3) The Center shall restrict direct access to the data in the Maryland Longitudinal Data System to authorized staff of the Center as set forth in Education Article, §24-703(g).

(4) The Center shall direct requests for access to individual student records to the agency supplying the records to the Center for consideration under the Maryland Public Information Act, State Government, Title 10, Subtitle 6, Annotated Code of Maryland, and any and all applicable State and federal statutes and regulations.

C. Individual Workforce Records.

(1) The Center shall recognize that workforce records incorporated into the Maryland Longitudinal Data System are protected under Labor & Employment Article, §8-625, 20 CFR part 603, which are incorporated by reference, and other State and federal privacy laws.

(2) The Center shall ensure that workforce data is de-identified by removing or not disclosing any and all information that:

(a) Reveals the name, address, social security number, or any other identifying particular of an individual or employer; or

(b) Could foreseeably be combined with other publicly available information to reveal such particulars.

(3) The Center shall use only de-identified aggregate data in its research and reporting as set forth in Education Article, §§24-703(f)(3) and 24-703(g)(3).

(4) The Center shall restrict direct access to the data in the Maryland Longitudinal Data System to authorized staff of the Center as set forth in Education Article, §24-703(g).

(5) Requests for access to individual workforce records shall be directed to the Maryland Department of Labor, Licensing and Regulation for that agency's consideration under the Maryland Public Information Act, State Government, Title 10, Subtitle 6, Annotated Code of Maryland, and any and all applicable State and federal statutes and regulations.

D. The Center shall fulfill data requests made pursuant to Education Article, § 24-703(f)(6) and § 24-703(f)(7), Annotated Code of Maryland:

(1) Using de-identified aggregate data only, as set forth in Education Article, § 24-703(g)(2) and § 24-703(g)(3), Annotated Code of Maryland; and

(2) In compliance with:

(a) The privacy and confidentiality provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, as amended, and its accompanying regulations, located at 34 CFR §99, as amended;

(b) The Federal-State Unemployment Compensation Program (UC), 20 CFR part 603; Labor & Employment Article, §8-625, Annotated Code of Maryland; and

(c) Any other applicable State or federal data privacy or confidentiality provisions.

E. The Center shall deny a data request if the data provided may be identifiable based on the size or uniqueness of the population under consideration, as required under Education Article § 24-703(a)(4), Labor & Employment Article, § 8-625, Annotated Code of Maryland, and/or 20 CFR Part 603.

.07 Requests for Non-longitudinal data sets.

A. For purposes of this regulation, a data set is non-longitudinal if it contains data provided by only one of the following agencies that contribute data to the Center:

(1) Maryland State Department of Education;

(2) Maryland Department of Labor Licensing and Regulation; or

(3) Maryland Higher Education Commission.

B. The Center shall deny a request for a non-longitudinal data set and refer the requestor to the appropriate agency.