

ALLEHENY VALLEY SCHOOL DISTRICT-
POLICY GUIDELINES FOR PUBLIC RECORDS

The Board of School Directors recognizes the importance of access to public records. The public has the right, under law, to inspect and to procure copies of such records with certain exceptions subject to Pennsylvania's Right to Know Law.

Any record in the possession of the District shall be presumed to be a public record. The presumption shall not apply if: (1) the record is exempt from production under 65 P.S. § 67.708; (2) the record is protected by a privilege; or (3) the record is exempt from disclosure under any other Federal or Commonwealth law, regulation, or judicial order or decree. The District bears the burden of proving that the requested record is exempt from production.

DISCLOSURE AND PRODUCTION OF CERTAIN RECORDS

Posting:

The District shall post the contact information for the Open Records Officer and the Office of Open Records, a form which may be used to file a request and regulations, policies and procedures of the district relating to this Law. The information shall also be posted on the District's website.

Procedure:

Upon receipt of a written request for access to a record, the district shall make a good faith effort to determine if the record requested is a public record, legislative record or financial record and whether the agency has possession, custody or control of the identified record. All applicable fees shall be paid in order to receive access to the record requested. The time for response shall not exceed five business days from the date the written request is received by the Open Records Officer for the district. If the district fails to send the response within five business days of receipt of the written request for access, the written request for access shall be deemed denied. If the Open Records Officer determines that an extension of time is required to respond to a records request, the requester will be notified in writing. Reasons for an extension may include: retrieval time, redaction, staffing limitations, legal review or failure to pay fees.

Denial:

If a request is denied, whether in whole or in part, the denial shall be in writing and include: (1) a description of the record requested; (2) the reason for the denial, including a citation to legal authority; (3) the typed or printed name, title, business address, business telephone number and signature of the Open Records Officer; (4) date of the response; and (5) procedure for appeal.

A district may deny a requester access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the

district.

District Does Not Possess the Record:

A request for a public record that the district does not possess but is possessed by a third party with whom the district has contracted to perform a governmental function and which relates directly to that governmental function must be submitted to the district's Open Records Officer. If the Open Records Officer determines that the requested record is subject to public access, the Open Records Officer will respond and grant access in accordance with law, District policy and administrative regulations. The third party is not required to provide access to any other of its records.

Transcripts of Administrative Proceedings:

Prior to an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding will be provided to a requester by the proceeding's stenographer. The requester must directly contact the stenographer and pay the fees assessed by the stenographer. After the adjudication becomes final, binding and nonappealable, a transcript of the administrative proceeding will be provided to a requester and the established duplication fee will be charged.

Electronic Access:

The District may make its records available through any publicly accessible electronic means. The District may also respond to a request by notifying the requester that the records are available through publicly accessible electronic means. If the requester is unwilling or unable to access the record electronically, the requester may, within thirty days following District notification, submit a written request to the District to have the record converted into paper which request will be fulfilled within five days providing appropriate fees are paid.

The Open Records Officer will not grant requests for access to the district's or its employees' computers.

Discretionary Access

The Open Records Officer may exercise discretion and make an otherwise exempt record accessible in response to a request

The exempted record will be made accessible for access and duplication, in accordance with District policy, if all of the following apply:

1. Disclosure of the record is not prohibited by federal or state law or regulation, or by judicial order or decree.
2. The record is not protected by privilege, including the attorney-work product doctrine; attorney-client privilege; doctor-patient privilege; speech and debate privilege; or other privilege recognized by a relevant court.

3. The Solicitor determines that the public interest favoring access outweighs any individual, district or, public interest that may favor restriction of access.

RECORDS EXEMPT FROM PRODUCTION:

The following records are exempt from public access by a requester in accordance with the Right To Know Law. Please consult 65 P.S. 67.708 for an unabridged listing of all exempt records.¹

1. Loss of Funds/Physical Harm/Personal Security - when the disclosure of a record would result in the district's loss of federal or state funds or would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or personal security of an individual.
2. Public Safety - when the disclosure of a record maintained in connection with the military, homeland security, national defense, law enforcement or other public safety activity would reasonably be likely to jeopardize or threaten public safety or public protection activity, or a record that is designated classified by an appropriate federal or state military authority.
4. Computer Systems - when the disclosure of a record regarding computer hardware, software and networks, including administrative and technical records, would reasonably be likely to jeopardize computer security.
5. Medical information or related information which would disclose individually identifiable health information.
6. Personal Identification Information - disclosure of the following personal identification information.
 - a. A record containing all or part of an individual's Social Security number, driver's license, driver's license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number.
 - b. A spouse's name, marital status, beneficiary or dependent information.
 - c. The home address of a law enforcement officer or judge.

Personal information that must be disclosed includes the name; position; salary; actual compensation or other payments or expenses; employment contract; employment-related contract or agreement; and length of service of a public official or district employee.

¹ Pennsylvania's Right to Know Law has enumerated thirty (30) categories of documents which are exempted from disclosure. As such, do not use the exemption's corresponding number when citing to an exemption. An exempted record is still exempt even though it may not appear in the District's abridged version of categories of exempted records.

The Open Records Officer may redact from a record any exempt information.

7. Certain Employee Information - disclosure of the following records relating to a district employee:
 - a. A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual.
 - b. A performance rating or review.
 - c. The result of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.
 - d. The employment application of an individual who is not hired by the District.
 - e. Workplace support services information.
 - f. Written criticisms of a District employee.
 - g. Grievance material, including documents related to discrimination or sexual harassment.
 - h. Information regarding discipline, demotion or discharge contained in a personnel file, except information that applies to the district's final action that results in demotion or discharge.
 - i. An academic transcript.
8. Labor Relations/Negotiations/Arbitration - disclosure of a record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings.

This exemption does not apply to a final or executed contract or agreement between the parties in a collective bargaining agreement, or to the final, award or order of the arbitrator in a dispute or grievance procedure.
9. Predecisional Drafts - disclosure of the draft of a bill, resolution, regulation, statement of policy, management directive, ordinance, or amendments, prepared by or for the District.
10. Predecisional Deliberations –

Disclosure of a record that reflects:

- a. The internal or external, predecisional deliberations of the District, its Board members, employees or officials, including predecisional deliberations relating to a budget recommendation; legislative proposal; legislative amendment; contemplated or proposed policy or course of action; or any research, memos or other documents used in the predecisional deliberations, subject to law governing open meetings.
 - b. The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.
11. Trade Secret/Confidential Proprietary Information - disclosure of a record that constitutes or reveals a trade secret or confidential proprietary information.
 12. Personal Notes/Working Papers - disclosure of notes and working papers prepared by or for a District public official or employee used solely for that official's or employee's own personal use, including telephone message slips; routing slips; and other materials that do not have an official purpose.
 13. Donor Identity - disclosure of records that would disclose the identity of an individual who lawfully makes a donation to the District, unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a District public official or employee, including lists of potential donors compiled by the district to pursue donations; donor profile information; or personal identifying information relating to a donor.
 14. Unpublished Academic Works - disclosure of unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress or research-related material.
 15. Academic Records - disclosure of academic transcripts, examinations, examination questions, scoring keys and answers to examinations.
 16. Criminal Investigations - disclosure of a record of the District or an agency relating to or resulting in a criminal investigation.

This exemption does not apply to information contained in a police blotter as defined in law and utilized or maintained by the State Police, local, campus, transit or port authority police department or other law enforcement agency, or in a traffic report except as provided by law.

17. Noncriminal Investigations - disclosure of a District record relating to a noncriminal investigation, including:
 - a. Complaints submitted to the District;
 - b. Investigative materials, notes, correspondence and reports;

- c. A record that includes the identity of a confidential source, including individuals subject to the Whistleblower Law;
 - d. A record that includes information made confidential by law;
 - e. Work papers underlying an audit; and
 - f. A record that if disclosed would reveal the institution, progress or result of a district investigation, except the imposition of a fine or civil penalty; the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement unless the agreement is determined to be confidential by a court; deprive a person of the right to an impartial adjudication; constitute an unwarranted invasion of privacy; hinder an agency's ability to secure an administrative or civil sanction; or endanger the life or physical safety of an individual.
19. Draft Minutes - disclosure of draft minutes of any School Board meeting until the next regularly scheduled Board meeting, minutes of an executive session, and any record of discussions held in executive session.
 20. Real Estate Appraisals/Feasibility Studies - disclosure of the contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by the district relative to the leasing, acquiring, or disposing of real property or an interest in real property; the purchase of public supplies or equipment included in the real estate transaction; and construction projects.

This exemption does not apply to the documents listed above once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property, the purchase of public supplies, or a construction project
 21. Library Records - disclosure of library and archive circulation and order records of an identifiable individual or groups of individuals.
 22. Library/Museum Materials - disclosure of library archived and museum materials or valuable or rare book collections or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution.
 23. Pre-Contract Award Documents - disclosure of a proposal pertaining to District procurement or disposal of supplies, service or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offerer requested in an invitation for bid or request for proposals to demonstrate the bidder's or offerer's economic capability; or the identity of members, notes and other records of district proposal evaluation committees established under law relating to competitive sealed proposals.
 24. Insurance Communications - disclosure of a record or information relating to a

communication between the District and its insurance carrier, administrative service organization or risk management office.

This exemption does not apply to a contract with an insurance carrier, administrative service organization or risk management office, or to financial records relating to the provision of insurance.

25. Social Services - disclosure of a record or information identifying an individual who applies for or receives social services.
26. Minors - disclosure of a record identifying the name, home address or date of birth of a child seventeen. (17) years of age or younger.

FEES

The District will not charge a fee for the Open Records Officer's review of a record to determine if the requested record is a public record subject to access under law, Board policy and administrative regulations.

The Open Records Officer will ensure that the District establishes, maintains and disseminates a current list of reasonable fees that requesters must pay in order to receive access to a requested record.

The District's established list of reasonable fees applicable to record requests will comply with the following restrictions:

1. Postage — fees will not exceed the actual mailing cost.
2. Duplication — fees for photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means, and other methods of duplication.
3. Certification — fees for official certification of copies if the certification is for the purpose of legally verifying a public record and is requested by the requester.
4. Conversion to Paper duplication fees for a record maintained only electronically or in other nonpaper media will be limited to the lesser of either the fee for duplication on paper or in the original media, unless the requester specifically requests that the record be duplicated in the more expensive medium.
5. Enhanced Electronic Access — fees for providing enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication, by a requester.

These fees may be a flat-rate fee, a subscription fee for a period of time, per-transaction fee, a fee based on the cumulative time of system access, any other reasonable method, or a combination of these.

These fees must be reasonable; may not be established with the intent or effect of excluding individuals from access to records or their duplicates or of creating a profit for the District; and must be approved by the Office of Open Records.

Except as provided by law, no other fees may be imposed unless the district necessarily incurs costs for complying with a request for a public record, and then such fees must be reasonable.