

Lower Merion School District

ADMINISTRATIVE REGULATIONS

No.: 801
Section: OPERATIONS
Title: PUBLIC ACCESS TO SCHOOL DISTRICT RECORDS
Date Last Revised: 12/15/08

R801 PUBLIC ACCESS TO SCHOOL DISTRICT RECORDS

Public Access to School District Records Which Qualify as Public Records Under State Law

Definitions:

Financial record - any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the salary or other payments or expenses paid to an officer or employee, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.

Public record - a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law or under other federal or state law or regulation, or judicial decree or order.

Record - information, regardless of physical form or characteristics, that documents a District transaction or activity and is created, received or retained pursuant to law or in connection with a District transaction, business or activity, including: a document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and a data-processed or image-processed document.

Posting

District website shall include:

1. Contact information for the Open Records Officer.
2. Contact information for the state's Office of Open Records or other applicable appeals officer.
3. The form to be used to file a request, with a notation that the state Office of Open Records form may also be used if the District decides to create its own form.
4. Board policy, administrative regulations and procedures governing requests for access to the District's public records.

Open Records Officer shall:

1. Receive written requests for access to records submitted to the District.
2. Review and respond to written requests in accordance with law, Board policy and administrative regulations.

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3. Direct requests to other appropriate individuals in the District or in another agency.
4. Track the District's progress in responding to requests.
5. Issue interim and final responses to submitted requests.
6. Maintain a log of all record requests and their disposition.
7. Ensure District staff are trained to perform assigned job functions relative to requests for access to records.

Upon receiving a request for access to a record, the Open Records Officer shall:

1. Note the date of receipt on the written request.
2. Compute and note on the written request the day on which the five-day period for response will expire.
3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.
4. If the written request is denied, maintain the written request for thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

Procedure for Requesting Records

A written request for access to a public record shall be submitted on the required form(s) attached to this regulation as Attachment "A" and addressed to the Open Records Officer.

Written requests may be submitted to the District in person, by mail, to a designated facsimile machine, and to a designated e-mail address.

Each request must include the following information:

1. Identification or description of the requested record, in sufficient detail.
2. Medium in which the record is requested.
3. Name and address of the individual to receive the District's response.

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The District shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.

Response to Request

District employees shall be directed to forward requests for access to public records to the Open Records Officer.

Upon receipt of a written request for access to a record, the Open Records Officer shall determine if the requested record is a public record and if the District has possession, custody or control of that record.

The Open Records Officer shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer.

The initial response shall grant access to the requested record, deny access to the requested record, partially grant and partially deny access to the requested record, or notify the requester of the need for an extension of time to fully respond.

Normally, records are available at the District from 8:30 a.m. to 4:00 p.m. Monday through Friday each week except for certain holidays.

The Open Records Officer shall typically respond to the written request within five (5) business days but in no event shall the time for response exceed the time limits of the Right-to Know Act.

Extension of Time:

If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in law, written notice shall be sent within five (5) business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension, a reasonable date when the response is expected, and an estimate of applicable fees owed when the record becomes available.

Up to a thirty (30) day extension for one (1) of the listed reasons does not require the consent of the requester. If the response is not given by the specified date, it shall be deemed denied on the day following that date.

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A requester may consent in writing to an extension that exceeds thirty (30) days, in which case the request shall be deemed denied on the day following the date specified in the notice if the Open Records Officer has not provided a response by that date.

Granting Of Request

If the Open Records Officer determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the administration office, provide electronic access, or state where the requester may go to inspect the records or information electronically at a publically accessible site. The response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required in a specified amount if access to the records will cost in excess of one hundred dollars (\$100.00), and the medium in which the records will be provided.

The Open Records Officer may respond to a records request by notifying the requester that the record is available through publicly accessible electronic means or that the District shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the District's notice, submits a written request to have the record converted to paper, the District shall provide access in printed form within five (5) days of receipt of the request for conversion to paper.

Denial of Request

The Open Records Officer may deny a request for 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.

The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable.

Information that is not subject to access and is redacted from a public record shall be deemed a denial.

If the Open Records Officer responds to a requester that a copy of the requested record is available for delivery at the administration office and the requester does not retrieve the record within sixty (60) days of the District's response, the District shall dispose of the copy and retain any fees paid to date.

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If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the state's Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.

If the Open Records Officer denies a request for access to a record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request. The response denying the request shall include the following:

1. Description of the record requested.
2. Specific reasons for denial, including a citation of supporting legal authority.
3. Name, title, business address, business telephone number, and signature of the Open Records Officer on whose authority the denial is issued.
4. Date of the response.
5. Procedure for the requester to appeal a denial of access.

Documents Not Qualifying As Public Records

- Internal predecisional deliberations of administrators, employees and Board members
 - unless presented to a quorum for deliberation at a public meeting.
 - Includes real estate appraisals until decision made to proceed with lease, sale or acquisition of property.
- Draft minutes of meetings.
- Executive Session minutes or record of discussion.
- Bid proposals
- Communication with insurance carriers
- Privileged communications:
 - Communications with District Solicitor or other attorneys
 - Doctor-patient communications; and
 - Speech and debate privilege – applicable to legislative functions
- Records which, if disclosed, would
 - result in loss of Federal or State funds;
 - likely lead to physical harm or personal security of a person;
 - jeopardize safety of the public, a building, infrastructure, information storage system, or resource; or
 - jeopardize computer security.

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- Records of child (17 or under):
 - name;
 - address; or
 - date of birth.
 - NOTE: Other confidentiality restrictions may apply to student records under other laws.
- Records of individuals
 - confidential personal health information;
 - applications for social services; and
 - confidential personal information such as social security number, driver's license, financial information, email address and personal phone numbers.
- Records of employees:
 - Reference letters and written criticisms
 - Employment application (if not hired);
 - Employee assistance program information;
 - Grievances and complaints of discrimination
 - Discipline, demotion and discharge (except for final action of discharge or discipline)
 - Academic transcript
 - NOTE: Other confidentiality restrictions may apply to employee records under other laws.
- Certain records relating to criminal and non-criminal investigations
- Transcripts and exhibits of arbitration hearings (final decision is public however).
- Drafts of policies, resolutions or administrative regulations.
- Results of public opinion surveys
- Trade secrets or other confidential proprietary information.
- Personal notes and working papers of an individual, includes message slips.
- Donor lists and makers of donations (unless donation benefits specific Board member or specific employee)

Third Parties

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 directly relates to that governmental function shall be considered a public record of the District. When the District contracts with such a third party, the District shall require the contractor to agree in writing to comply with requests for such records and to provide the District with the requested record in a timely manner to allow the District to comply with law.

When the District produces a record that is not a public record in response to a request, the Open Records Officer shall notify any third party that provided the record to the District, the person that is the subject of the record, and the requester.

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The Open Records Officer shall notify a third party of a record request if the requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.

Fees

Fees for duplication and, where applicable, document retrieval will be charged according to the following fee schedule which shall be periodically updated.

Postage	Actual cost to District
Certification costs	\$1 per record not per page
Duplication costs	
Paper copying charge	[up to \$0.25 per page has been upheld]
Facsimile charge	Actual cost to District
Electronic records copied to native media	Actual cost to District
Electronic records copied to paper	If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or fee for duplication in the original media unless the requester specifically request for the record to be duplicated in the more expensive medium.
Enhanced electronic access	To be determined if and when offered

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Complex and extensive data sets

Reasonable Market Value

Retrieval fee (for records which do not
qualify as public records)

\$60 per hour for administrative and
clerical time.

LOWER MERION SCHOOL DISTRICT

REQUEST FOR ACCESS TO SCHOOL DISTRICT RECORDS

Information Requested (information to be provided by the Requestor)

1. Name of requestor _____
2. Address of requestor _____
3. Information requested _____

4. Manner of submission (circle one)
In person
By mail
By facsimile
By electronic means
Other _____
5. Nature of request (circle one)
Inspection
Duplication
Both
6. Medium requested for release (circle one)
Paper
Electronic
Other _____

For Office Use Only

Date of receipt _____

Date on which five day period for response will expire _____

RESPONSE TO REQUEST

I. Description of Record Requested and Name of Requestor

II. Date of Response (Within 5 days of date of request)

Date request was granted _____

OR

Date form with Section III completed sent to requestor _____

III. Basis for Review (Circle all applicable reasons and fill in additional information in space provided)

1. Request requires redaction of public record
2. Request for access requires retrieval of record stored in remote location (identify location)
3. Timely response cannot be made due to bona fide and specified staffing limitation (state specific staffing limitations)

4. Legal review required to determine whether record is a public record
5. Requestor failed to comply with Policy 1123 in the following respect:

6. Requestor refused to pay applicable fees. Amount owed: _____
7. The extent or nature of the request precludes a response within the required time period.

IV. Basis for Denial of Request

Request denied by:

Name _____

Title _____

Business Telephone Number _____

Business Address _____

Date of Denial _____

Citation of Supporting Legal Authority _____

V. Appeal

If requestor chooses to appeal denial of access, the requestor may appeal to the State's Office of Open Records by filing exceptions within fifteen business days of the mailing date of the date set forth in IV or within fifteen business days of deemed denial. The exceptions shall state grounds upon which the requestor asserts that the record is a public record and shall address any grounds stated by the School District for delaying or denying the request.

Signature of Opens Records Officer