

PUBLIC RECORDS

Background

The Board of School Directors recognizes the importance of public records of the District as well as the public's right to inspect such records as they constitute the repository of information about this District. The District recognizes the public's right under the Pennsylvania Right to Know Law, 65 P.S. §§66.1, *et seq.*, as amended by 65 P.S. §§ 67.101, *et seq.*, and other applicable state and federal laws, to inspect and procure copies of the public records of the District, subject to the following procedures.

Definitions

The "public records" of the District shall mean records that are not protected from disclosure by a privilege or are not exempt from being disclosed pursuant to 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.

A "record" shall include information, regardless of physical form or characteristics, that documents a District transaction or activity and that 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.

A "requester" is a person who is a legal resident of the United States and requests a record pursuant to Pennsylvania's Right-to-Know Law.

Objectives

The objectives of this Policy are to (i) ensure that the public is provided with access to the public records of the District as required by law, and to keep the public regularly and thoroughly informed on the policies, programs, problems and planning of the school system; (ii) develop a reasonable and orderly procedure to be followed in responding to requests to inspect and/or copy District public records; and (iii) establish a reasonable schedule of charges, consistent with applicable law, to offset the costs involved in responding to requests to inspect and/or copy public records of the District.

Policy

The public records of the District shall be made available for inspection and copying in accordance with applicable Federal and State law and the procedures set forth herein.

Open Records Officer

The District shall designate an Open Records Officer, who shall be responsible to:

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 any administrative regulations.
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 that appropriate District staff are trained to perform assigned job functions relative to requests for access to records.

Requests for Records

A written request for access to a public record shall be submitted on the District Right-to-Know Law Request Form of the Office of Open Records' Standard Request Form and addressed to the Open Records Officer. Written requests may be submitted to the District in person, by mail, to a designated facsimile machine, or to a designated email 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.

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. The District shall not limit the number of records requested.

The District shall post the following information at the administration office and on the District's website (www.mtisd.org/district):

1. Contact information for the District's Open Records Officer.

2. Contact information for the Commonwealth's Office of Open Records or other applicable appeals officers, which may include references to state websites providing further information on public records and on the types of records that are not public records.
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, if any, governing requests for access to the District's public records.

Responses to Requests for 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 date on which the five-day period for response will expire.
3. Maintain the original and 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.

District employees shall forward requests for access to public records to the Open Records Officer, or refer the requester to the Open Records Officer for information on applicable procedures.

The Open Records Officer, after consultation with the Solicitor as may be appropriate, shall determine whether the requested document(s) is/are a public record(s) required to be made available after giving consideration to any confidentiality and other legal requirements. The District may, at its discretion, disclose a non-public record if disclosure is not prohibited by law or judicial order, the disclosure is not protected by privilege and the Superintendent determines that the public interest favoring access outweighs any individual, agency or public interest that may favor restriction of access.

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.

If the District fails to respond to a request within five (5) business days of receipt, the request for access shall be deemed denied.

When responding to a request for access, the District is not required to create a record that does not exist nor to compile, maintain, format or organize a record in a manner which the District does not currently use.

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 Pennsylvania's Right-to-Know Law, written notice shall be sent to the requester within five (5) business days of receipt of the request. These factors include instances where (i) redaction is required; (ii) retrieval of records from a different location is required; (iii) delays are due to bona fide and specified staffing limitations; (iv) legal review is necessary; (v) the requester has not complied with this policy; (vi) the requester refuses to pay applicable fees; (vii) and/or where the extent or nature of the request precludes a response within the required time period.

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.

Extensions of up to thirty (30) days for one of the reasons set forth in the Right-to-Know Law do not require the consent of the requester. If the response is not given by the date specified in the notice, the request shall be deemed denied on the day following that date.

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.

Grant 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 to access the information electronically at a publicly 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.

In the course of the examination, inspection and copying, documents shall be kept secure on District premises under the direct supervision and control of District personnel (except where the District determines that a commercial copying service will be used) and monitored as appropriate when in the physical possession of the requesting party.

A public record shall be provided to the requester in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, the District is not required to permit use of its computers.

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.

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. Third parties contracting with the District to perform a governmental function shall be required to provide the District with the requested record in a timely manner to allow the District to comply with law.

If the District decides to disclose a record that does not qualify as a "public record" under the Right-to-Know Law, the District shall notify any third party that provided the record to the District, as well as the person that is the subject of the record and the requester.

If the Open Records Officer determines that a public record contains information both subject to and not subject to access, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer shall redact from the record the information that is not subject to access. The Open Records Officer shall not deny access to a public record if privileged or exempt information is able to be redacted.

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.

Transcripts

Upon receiving a request for a stenographic transcript of an administrative adjudication proceeding, the Open Records Officer shall first determine whether such transcript is a public record. If the transcript constitutes a public record, the Open Records Officer shall then determine whether the adjudication is final, binding and appealable.

In the case of a request for access to a transcript of a pre-final adjudication, the requester shall make arrangements with the stenographer directly and pay the stenographer fees pursuant to the stenographer's usual fee schedule. If the adjudication is determined to be final, binding and non-appealable, the District shall provide a copy of the transcript pursuant to the fee schedule established by this policy.

Denial of Request

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 unless an extension has been obtained pursuant to this policy. 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.

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.

Fees

The Board establishes the following fees in relation to requests for public records:

1. Where copies of public records are forwarded to the requester by mail, the requester shall be responsible for the actual cost of postage and mailing.
2. The requester shall be responsible for duplication costs at the rate of twenty-five cents (\$0.25) per page for the first 1,000 black and white copies and twenty cents (\$0.20) per page for any black and white copies beyond 1,000.
3. The requester shall be responsible to pay any additional fees for reproduction, duplication and certification of public records at the rates established by the Pennsylvania Office of Open Records as set forth at <http://openrecords.state.pa.us>.
4. The RTKL contemplates a contemporaneous exchange of fees for records and the District may withhold the responsive records until the Requester pays the duplication and postage fees for the records. The District may require payment of any outstanding balances from previous RTKL requests before releasing any records to a requester. In addition, the District may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed

\$100. Once the request is fulfilled and prepared for release, the District will require payment prior to releasing the records.

5. A "copy" is either a single-sided copy, or one side of a double-sided copy, on 8.5"x11" or 8.5"x14" paper.
6. If a requester asks to receive records which require redactions in electronic format and the District is unable to securely redact the records by electronic means, the District may print the records to provide for secure redaction, then scan them in for delivery by email. Accordingly, the District may charge the fees noted above for either B&W or color copies, as appropriate.
7. If the District must print records to send them by facsimile, the District may charge the fees noted above for black and white copies.
8. If redaction is required prior to the requester being granted access to inspect records and the District is unable to securely redact the records by electronic means, the District may copy or print the records to provide for secure redaction. Accordingly, the District may charge the fees noted above for either black and white or color copies, as appropriate.

Administrative Responsibilities

The Administration shall develop any administrative procedures deemed necessary or advisable to implement this Policy.

Communication

This policy shall be communicated to the public and to all District personnel involved in its implementation.

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