LENAPE AREA VOCATIONAL TECHNICAL SCHOOL

SECTION: OPERATIONS

TITLE: PUBLIC RECORDS

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801. PUBLIC RECORDS

Purpose

The Joint Operating Committee recognizes the importance of public records as the record of the school's actions and the repository of information. The public has the right to access and procure copies of public records, with certain exceptions, subject to law, Joint Operating Committee policy and administrative regulations.

Definition

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. [1]

Public record - a record, including a financial record, which 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. [1]

Record - information, regardless of physical form or characteristics, that documents a School transaction or activity and is created, received or retained pursuant to law or in connection with a School 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.

Response - the school's notice informing a requester of a granting of access to a record or the district's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record. [1]

Requester - a **person that is a** legal resident of the United States, or an agency, who requests access to a record. **The term Requester includes an agency**. [1]

Authority

The Joint Operating Committee shall make the school's public records available for access and duplication to a requester, in accordance with law, Joint Operating Committee policy and administrative regulations. [2][3][4][5]

The Joint Operating Committee authorizes the school to deny anonymous requests for records. A request may be considered anonymous if the requester has submitted insufficient information for the school to identify if the requester

	is a legal resident of the United States. [1][6]
Delegation of Responsibility	The Joint Operating Committee shall designate an Open Records Officer, who shall be responsible to: [7] 1. Receive written requests for access to records submitted to the school. 2. Review and respond to written requests in accordance with law, Joint Operating Committee policy and administrative regulations. 3. Direct requests to other appropriate individuals in the school or in another agency. 4. Track the school'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 school staff is 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: [7][8][9] 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.
Guidelines	Requesters may access and procure copies of the public records of the school during the regular business hours of the administration offices. [5] A requester's right of access does not include the right to remove a record from the control or supervision of the Open Records Officer. The school shall not limit the number of records requested. [2] When responding to a request for access, the school 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 school does not currently use. [10]

Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice. [11][12][13]

The school shall post at the administration office and on the school's **website** the following information: [4][14]

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 school decides to create its own form.

The school shall post the acceptable form(s) on the school's website with information notifying requesters that the school may choose to deny a request for failure to submit the proper form. [15]

4. Joint Operating Committee policy, administrative regulations and procedures governing requests for access to the school's public records.

Request For Access

A written request for access to a public record shall be submitted on the required form(s) and addressed to the Open Records Officer. [4][14][15][16]

Requests made in accordance with this policy may be submitted to the school in person, by mail **or** to a designated email address **and must include the following information:** [5][16]

1. Identification or description of the requested record, in sufficient detail **to allow the school to determine what records are being requested.**
2. Medium in which the record is requested.
3. Name and address of the individual to receive the school's response.

The school shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.[16]

Fees

Except for the duplication fee established by the state, the Joint Operating Committee shall approve a list of reasonable fees relative to requests for public records. The school shall maintain a list of applicable fees and disseminate the list to requesters. [17]

No fee may be imposed for review of a record to determine whether the record is subject to access under law. [17]

Prior to granting access**,** the school may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed $100. [17]

The Administrative Director may waive duplication fees when the requester duplicates the record, or the Administrative Director deems it is in the public interest to do so. [17]

Response To Request

Employees of the school shall be directed to immediately forward requests for access to public records to the Open Records Officer. [7][18]

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 school has possession, custody or control of that record. [8]

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. [8]

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; notify the requester of the need for an extension of time to fully respond; or request more detail from the requester to clearly identify the requested material.

If the school fails to respond to a request within five (5) business days of receipt, the request for access shall be deemed denied. [8]

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. [8][19]

Up to a thirty- 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.

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 **a copy of the requested records**, 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 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 $100, and the medium in which the records will be provided.

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 school is not required to permit use of its computers. [5]

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 school shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the school's notice, submits a written request to have the record converted to paper, the school shall provide access in printed form within five (5) days of receipt of the request for conversion to paper. [5][20]

A public record that the school does not possess but is possessed by a third party with whom the school has contracted to perform a governmental function and which directly relates to that governmental function shall be considered a public record of the school, and shall be made accessible in accordance with law, Joint Operating Committee policy and administrative regulations. When the school contracts with such a third party, the school shall require the contractor to agree in writing to comply with requests for such records and to provide the school with the requested record in a timely manner to allow the school to comply with law. [21]

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 record if information is able to be redacted. [22]

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 school's response, the school shall dispose of the copy and retain any fees paid to date. [23]

Notification **to** Third Parties

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. [24]

When the School 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 school, the person that is the subject of the record, and the requester. [24]

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. The response denying the request shall include the following: [8][25]

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 **identical** requests for that same record and the repeated requests have placed an unreasonable burden on the school. [21]

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. [21]

Information that is not subject to access and is redacted from a public record shall be deemed a denial. [22][25]

Appeals

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. [9]

Appeals Involving Third Party Records

The Open Records Officer shall provide notice to a third party within seven (7) business days of any appeal relating to records requested, which affect the legal or security interest of an employee; contain or constitute proprietary, confidential or trademarked records of a third party; or are held by a third party contractor or vendor, the school shall notify such parties of the appeal and advise them of their ability to participate in accordance with law. The

	Open Records Officer shall also provide proof of such notice to the Office of Open Records within seven (7) business days of sending the third party notification.[9][26] **PSBA Revision 6/24 © 2024 PSBA** Legal References 1. 65 P.S. 67.102 2. 65 P.S. 67.302 3. 65 P.S. 67.305 4. 65 P.S. 67.504 5. 65 P.S. 67.701 6. Anonymous v. Downingtown Area School District, OOR Dkt. No.: AP 2023-2329 7. 65 P.S. 67.502 8. 65 P.S. 67.901 9. 65 P.S. 67.1101 10. 65 P.S. 67.705 11. 42 U.S.C. 12132 12. 28 CFR 35.160 13. 28 CFR 35.164 14. 65 P.S. 67.505 15. K Pace v. City of Philadelphia Department of Licenses and Inspections, OOR Dkt. No.: AP 2024-0292 16. 65 P.S. 67.703 17. 65 P.S. 67.1307 18. 65 P.S. 67.702 19. 65 P.S. 67.902 20. 65 P.S. 67.704 21. 65 P.S. 67.506 22. 65 P.S. 67.706 23. 65 P.S. 67.905 24. 65 P.S. 67.707 25. 65 P.S. 67.903 26. Office of Open Records Procedural Guidelines 24 P.S. 408 24 P.S. 518 42 U.S.C. 12101 et seq 65 P.S. 67.101 et seq Pol. 800