

UNIONVILLE-
CHADDS FORD
SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: PUBLIC RECORDS

ADOPTED: December 1, 2008

801. PUBLIC RECORDS

1. Purpose

The Board recognizes the importance of public records as the record of the acts of the District and the repository of information about the District. The Board acknowledges the Right-to-Know Law (hereafter referred to as the "Law"), which gives the public the right to inspect and secure copies of the District's public records, with certain exceptions. By this Policy, the Board implements the Law.

2. Definitions

The following words and phrases when used in this Policy shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agency." A Commonwealth agency, a local agency, a judicial agency or a legislative agency.

"Administrative proceeding." A proceeding by the District the outcome of which is required to be based on a record or documentation prescribed by law or in which a statute or regulation is particularized in application to individuals. The term includes an appeal.

"Aggregated data." A tabulation of data which relate to broad classes, groups or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories.

"Commonwealth agency." Any of the following:

(1) Any office, department, authority, board, multistate agency or commission of the executive branch, an independent agency and a State-affiliated entity. The term includes:

(i) The Governor's Office.

(ii) The Office of Attorney General, the Department of the Auditor General and the Treasury Department.

(iii) An organization established by the Constitution of Pennsylvania, a statute, or an executive order which performs or is intended to perform an essential governmental function.

(2) The term does not include a judicial or legislative agency.

"Confidential proprietary information." Commercial or financial information received by the District:

- (1) which is privileged or confidential; and
- (2) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.

"Financial record." Any of the following:

- (1) Any account, voucher or contract dealing with:
 - (i) the receipt or disbursement of funds by the District; or
 - (ii) the District's acquisition, use or disposal of services, supplies, materials, equipment, or property.
- (2) The salary or other payments or expenses paid to an officer or employee of the District, including the name and title of the officer or employee.
- (3) A financial audit report. The term does not include work papers underlying an audit.

"Homeland security." Governmental actions designed to prevent, detect, respond to, and recover from acts of terrorism, major disasters, and other emergencies, whether natural or manmade. The term includes activities relating to the following:

- (1) emergency preparedness and response, including preparedness and response activities by volunteer medical, police, emergency management, hazardous materials, and fire personnel;
- (2) intelligence activities;
- (3) critical infrastructure protection;
- (4) border security;
- (5) ground, aviation, and maritime transportation security;
- (6) biodefense;
- (7) detection of nuclear and radiological materials; and
- (8) research on next-generation securities technologies.

"Judicial agency." A court of the Commonwealth or any other entity or office of the unified judicial system.

"Legislative agency." Any of the following:

	<p>(1) The Senate.</p> <p>(2) The House of Representatives.</p> <p>(3) The Capitol Preservation Committee.</p> <p>(4) The Center for Rural Pennsylvania.</p> <p>(5) The Joint Legislative Air and Water Pollution Control and Conservation Committee.</p> <p>(6) The Joint State Government Commission.</p> <p>(7) The Legislative Budget and Finance Committee.</p> <p>(8) The Legislative Data Processing Committee.</p> <p>(9) The Independent Regulatory Review Commission.</p> <p>(10) The Legislative Reference Bureau.</p> <p>(11) The Local Government Commission.</p> <p>(12) The Pennsylvania Commission on Sentencing.</p> <p>(13) The Legislative Reapportionment Commission.</p> <p>(14) The Legislative Office for Research Liaison.</p> <p>(15) The Legislative Audit Advisory Commission.</p> <p>"Local agency." Any of the following:</p> <p>(1) Any political subdivision, intermediate unit, charter school, cyber charter school, or public trade or vocational school.</p> <p>(2) Any local, intergovernmental, regional, or municipal agency, authority, council, board, commission, or similar governmental entity.</p> <p>"Office of Open Records." The Office of Open Records established in section 1310 of the Law.</p> <p>"Open-Records Officer." The District's Superintendent.</p> <p>"Personal financial information." An individual's personal credit, charge, or debit card information; bank account information; bank, credit, or financial statements; account or PIN numbers and other information relating to an individual's personal finances.</p> <p>"Privilege." The attorney-work-product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege, or other privilege recognized by a court interpreting the laws of this Commonwealth.</p>
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"Public record." A record, including a financial record, of the District that:

(1) is not exempt under section 708 of the Law;

(2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or

(3) is not protected by a privilege.

"Record." Information, regardless of physical form or characteristics, that documents a transaction or activity of the District and that is created, received, or retained pursuant to law or in connection with a transaction, business, or activity of the agency. The term includes 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.

"Requester." A person that is a legal resident of the United States and requests a record pursuant to the Law. The term includes an "agency," as defined by the Law.

"Response." Access to a record or the District's written notice to a requester granting, denying, or partially granting and partially denying access to a record.

"Social services." Cash assistance and other welfare benefits, medical, mental and other health care services, drug and alcohol treatment, adoption services, vocational services and training, occupational training, education services, counseling services, workers' compensation services and unemployment compensation services, foster care services, services for the elderly, services for individuals with disabilities, and services for victims of crimes and domestic violence.

"Terrorist act." A violent or life-threatening act that violates the criminal laws of the United States or any state and appears to be intended to:

(1) intimidate or coerce a civilian population;

(2) influence the policy of a government; or

(3) affect the conduct of a government by mass destruction, assassination, or kidnapping.

"Trade secret." Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique, or process that:

(1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The term includes data processing software obtained by the District under a licensing

<p>3. <u>Prohibitions</u></p> <p>4. <u>Presumption</u></p> <p>5. <u>Nature of Document</u></p> <p>6. <u>Open-Records Officer</u></p>	<p>agreement prohibiting disclosure.</p> <p>The District may not adopt a policy or regulation that:</p> <p>(a) denies a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law.</p> <p>(b) places a limitation on the number of records that may be requested or made available for inspection or duplication.</p> <p>(c) requires a requester to disclose the purpose or motive in requesting access to records.</p> <p>A record in the possession of the District shall be presumed to be a public record. The presumption shall not apply if:</p> <p>(1) the record is exempt under section 708 of the Law;</p> <p>(2) the record is protected by a privilege; or</p> <p>(3) the record is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.</p> <p>Nothing in this Policy shall supersede or modify the public or nonpublic nature of a record or document established in Federal or State law, regulation, or judicial order or decree.</p> <p>(a) <u>Establishment.</u> In accordance with section 502(a)(1) of the Law, the District designates the Superintendent to act as the open-records officer.</p> <p>(b) <u>Functions.</u></p> <p>(1) The Superintendent shall receive requests submitted to the District under the Law and this Policy, direct requests to other appropriate persons within the District or to appropriate persons in another agency, track the District's progress in responding to requests, and issue interim and final responses under the Law and this Policy.</p> <p>(2) Upon receiving a request for a public record or financial record, the Superintendent shall do all of the following:</p> <p>(i) Note the date of receipt on the written request.</p> <p>(ii) Compute the day on which the five-day period under section 901 of the Law will expire and make a notation of that date on the written request.</p> <p>(iii) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) of the Law or the appeal is deemed denied.</p>
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<p>7. <u>Posting</u></p>	<p>The following information shall be posted at the District Office and on the District's website:</p> <ul style="list-style-type: none"> (1) Contact information for the open-records officer. (2) Contact information for the Office of Open Records or other applicable appeals officer. (3) A form which may be used to file a request. (4) Regulations, policies and procedures of the District relating to the Law.
<p>8. <u>Requests</u></p>	<ul style="list-style-type: none"> (a) <u>Disruptive Requests.</u> <ul style="list-style-type: none"> (1) The 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 agency. (2) A denial under this subsection shall not restrict the ability to request a different record. (b) <u>Disaster or Potential Damage.</u> <ul style="list-style-type: none"> (1) The District may deny a requester access: <ul style="list-style-type: none"> (i) when timely access is not possible due to fire, flood, or other disaster; or (ii) to historical, ancient or rare documents, records, archives, and manuscripts when access may, in the professional judgment of the curator or custodian of records, cause physical damage or irreparable harm to the record. (2) To the extent possible, the contents of a record under this subsection shall be made accessible to a requester even when the record is physically unavailable. (c) <u>District Discretion.</u> The District may exercise its discretion to make any otherwise exempt record accessible for inspection and copying under this Policy, if all of the following apply: <ul style="list-style-type: none"> (1) Disclosure of the record is not prohibited under any of the following: <ul style="list-style-type: none"> (i) Federal or State law or regulation. (ii) Judicial order or decree. (2) The record is not protected by a privilege. (3) The Board determines that the public interest favoring access outweighs any individual, agency or public interest that may favor restriction of access. (d) <u>District possession.</u>

<p>9. <u>Retention of Records</u></p> <p>10. <u>Procedure for Access to the District's Public Records</u></p>	<p>(1) A public record that is not in the possession of the District but is in the possession of a party with whom the District has contracted to perform a governmental function on behalf of the District, and which directly relates to the governmental function and is not exempt under the Law, shall be considered a public record of the District in accordance with the Law.</p> <p>(2) Nothing in this Policy shall be construed to require access to any other record of the party in possession of the public record.</p> <p>(3) A request for a public record in possession of a party other than the District shall be submitted to the Superintendent. Upon a determination that the record is subject to access under the Law, the Superintendent shall assess the duplication fee established under section 1307(b) of the Law and upon collection shall remit the fee to the party in possession of the record if the party duplicated the record.</p> <p>Nothing in this Policy shall be construed to modify, rescind, or supersede any record retention policy or disposition schedule of the District established pursuant to law, regulation, policy, or other directive.</p> <p>(a) <u>General rule.</u> Unless otherwise provided by law, a public record or financial record shall be accessible for inspection and duplication in accordance with the Law and this Policy. A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public records or financial records shall be available for access during the regular business hours of the District.</p> <p>(b) <u>Construction.</u> Nothing in this Policy shall be construed to require access to any computer either of the District or an individual employee of the District.</p> <p>(c) <u>Requests.</u> The District may fulfill verbal, written, or anonymous verbal or written requests for access to records under the Law and this Policy. However, if the requester wishes to pursue the relief and remedies provided for by the Law and this Policy, the request for access to records must be a written request.</p> <p>(d) <u>Written Requests.</u> A written request for access to records may be submitted in person, by mail, by e-mail, by facsimile or, to the extent provided by District rules, by any other electronic means. A written request must be addressed to the Superintendent. Employees of the District shall forward requests for records to the Superintendent. A written request shall be addressed to the Superintendent, Unionville-Chadds Ford School District, Kennett Square, PA 19348. The District's facsimile number is 610-347-0976. The e-mail address is _____. A written request shall identify or describe the records sought with sufficient specificity to enable the District to ascertain which records are being requested and shall include the name and address to which the District should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records unless otherwise required by law.</p> <p>(e) <u>Electronic access.</u> In addition to the requirements of the Law, the District may make its records available through any publicly accessible electronic means. In addition to the requirements of subsection (a) above, the District may respond to a request by notifying the requester that the record is available through publicly accessible</p>
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<p>11. <u>Redaction</u></p>	<p>electronic means or that the agency will provide access to inspect the record electronically. If the requester is unwilling or unable to access the record electronically, the requester may, within 30 days following receipt of the District's notification, submit a written request to the District to have the record converted to paper. The District shall provide access to the record in printed form within five days of the receipt of the written request for conversion to paper.</p> <p>(f) <u>Creation of Record.</u> When responding to a request for access, the District shall not be required to create a record which does not currently exist or to compile, maintain, format, or organize a record in a manner in which the District does not currently compile, maintain, format, or organize the record.</p> <p>If the District determines that a public record or financial record contains information which is subject to access as well as information which is not subject to access, the District's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record or financial record and cannot be separated, the District shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The District may not deny access to the record if the information which is not subject to access is able to be redacted. Information which the District redacts in accordance with this subsection shall be deemed a denial under the Law and Section 15(d) of this Policy.</p>
<p>12. <u>Production of Certain Records</u></p>	<p>(a) <u>General Rule.</u> If, in response to a request, the District produces a record that is not a public record or financial record, the District shall notify any third party that provided the record to the District, the person that is the subject of the record, and the requester.</p> <p>(b) <u>Requests for Trade Secrets.</u> The District shall notify a third party of a request for a record if the third party provided the record and included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information. Notification shall be provided within five business days of receipt of the request for the record. The third party shall have five business days from receipt of notification from the District to provide input on the release of the record. The District shall deny the request for the record or release the record within ten business days of the provision of notice to the third party and shall notify the third party of the decision.</p> <p>(c) <u>Transcripts.</u></p> <p>(1) Prior to an adjudication becoming final, binding, and nonappealable, a transcript of an administrative proceeding shall be provided to a requester by the agency stenographer or a court reporter, in accordance with District procedure or an applicable contract.</p> <p>(2) Following an adjudication becoming final, binding, and nonappealable, a transcript of an administrative proceeding shall be provided to a requester in accordance with the duplication rates established in section 1307(b) of the Law.</p>
<p>13. <u>Exceptions for Public Records</u></p>	<p>(a) <u>Burden of Proof.</u> The burden of proving that a record of the District is exempt from public access shall be on the District by a preponderance of the evidence.</p>

(b) Exceptions. Except as provided in subsections (c) and (d), the following are exempt from access by a requester under the Law and this Policy:

(1) A record, the disclosure of which:

(i) would result in the loss of Federal or State funds by the District or the Commonwealth; or

(ii) would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.

(2) A record maintained by the District in connection with the military, homeland security, national defense, law enforcement, or other public safety activity that, if disclosed, would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified by an appropriate Federal or State military authority.

(3) A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility, or information storage system, which may include:

(i) documents or data relating to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act;

(ii) lists of infrastructure, resources, and significant special events, including those defined by the Federal Government in the National Infrastructure Protections, which are deemed critical due to their nature and which result from risk analysis, threat assessments, consequences assessments, antiterrorism protective measures and plans, counterterrorism measures and plans, and security and response needs assessments; and

(iii) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration, or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems.

(4) A record regarding computer hardware, software, and networks, including administrative or technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.

(5) A record of an individual's medical, psychiatric, or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis, or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.

(6)(i) The following personal identification information:

(A) A record containing all or part of a person's Social Security number; 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, or beneficiary or dependent information.

(C) The home address of a law enforcement officer or judge.

(ii) Nothing in this paragraph shall preclude the release of 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 a District employee.

(iii) The District may redact the name or other identifying information relating to an individual performing an undercover or covert law enforcement activity from a record.

(7) The following records relating to a District employee:

(i) A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation.

(ii) A performance rating or review.

(iii) The result of a civil service or similar test administered by a Commonwealth agency, legislative agency, or judicial agency. The result of a civil service or similar test administered by a local agency shall not be disclosed if restricted by a collective bargaining agreement. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.

(iv) The employment application of an individual who is not hired by the District.

(v) Workplace support services program information.

(vi) Written criticisms of an employee.

(vii) Grievance material, including documents related to discrimination or sexual harassment.

(viii) Information regarding discipline, demotion, or discharge contained in a personnel file. This subparagraph shall not apply to the final action of the District that results in demotion or discharge.

(ix) An academic transcript.

(8)(i) A record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings. This subparagraph shall not apply to a final or executed contract or agreement between the parties in a collective bargaining procedure.

(ii) In the case of the arbitration of a dispute or grievance under a collective bargaining agreement, an exhibit entered into evidence at an arbitration proceeding, a transcript of the arbitration or the opinion. This subparagraph shall not apply to the final award or order of the arbitrator in a dispute or grievance procedure.

(9) The draft of a bill, resolution, regulation, statement of policy, management directive, ordinance, or amendment thereto prepared by or for an agency.

(10)(i) A record that reflects:

(A) The internal, predecisional deliberations of the District, its members, employees, or officials or predecisional deliberations between District employees or officials and members, employees or officials of another agency, 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.

(B) The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal, or regulation.

(ii) Subparagraph (i)(A) shall apply to agencies subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) in a manner consistent with 65 Pa.C.S. Ch. 7. A record which is not otherwise exempt from access under the Law and which is presented to a quorum for deliberation in accordance with 65 Pa.C.S. Ch. 7 shall be a public record.

(iii) This paragraph shall not apply to a written or Internet application or other document that has been submitted to request Commonwealth funds.

(iv) This paragraph shall not apply to the results of public opinion surveys, polls, focus groups, marketing research, or similar effort designed to measure public opinion.

(11) A record that constitutes or reveals a trade secret or confidential proprietary information.

(12) Notes and working papers prepared by or for a public official or District 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) Records that would disclose the identity of an individual who lawfully makes a donation to an agency unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the agency, including lists of potential donors compiled by an agency to pursue donations, donor profile information, or personal identifying information relating to a donor.

(14) Unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material and scholarly correspondence of a community college or an institution of the State System of Higher Education or a faculty member, staff employee, guest speaker, or student thereof.

(15)(i) Academic transcripts.

(ii) Examinations, examination questions, scoring keys, or answers to examinations. This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.

(16) A record of an agency relating to or resulting in a criminal investigation, including:

(i) Complaints of potential criminal conduct other than a private criminal complaint.

(ii) Investigative materials, notes, correspondence, videos, and reports.

(iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.

(iv) A record that includes information made confidential by law or court order.

(v) Victim information, including any information that would jeopardize the safety of the victim.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress, or result of a criminal investigation, except the filing of criminal charges.

(B) Deprive a person of the right to a fair trial or an impartial adjudication.

(C) Impair the ability to locate a defendant or codefendant.

(D) Hinder an agency's ability to secure an arrest, prosecution, or conviction.

(E) Endanger the life or physical safety of an individual.

This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit, or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b)(relating to accident prevention investigations).

(17) A record of an agency relating to a noncriminal investigation, including:

(i) Complaints submitted to an agency.

(ii) Investigative materials, notes, correspondence, and reports.

(iii) A record that includes the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L. 1559, No. 169), [FN25] known as the Whistleblower Law.

(iv) A record that includes information made confidential by law.

(v) Work papers underlying an audit.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of an agency 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 agreement unless the agreement is determined to be confidential by a court.

(B) Deprive a person of the right to an impartial adjudication.

(C) Constitute an unwarranted invasion of privacy.

(D) Hinder an agency's ability to secure an administrative or civil sanction.

(E) Endanger the life or physical safety of an individual.

(18)(i) Records or parts of records, except time response logs, pertaining to audio recordings, telephone, or radio transmissions received by emergency dispatch personnel, including 911 recordings.

(ii) This paragraph shall not apply to a 911 recording, or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

(19) DNA and RNA records.

(20) An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction, or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.

(21)(i) Draft minutes of any meeting of the District until the next regularly scheduled meeting of the District.

(ii) Minutes of an executive session and any record of discussions held in executive session.

(22)(i) The contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by the District relative to the following:

(A) The leasing, acquiring or disposing of real property or an interest in real property.

(B) The purchase of public supplies or equipment included in the real estate transaction.

(C) Construction projects.

(ii) This paragraph shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supply or construction project.

(23) Library and archive circulation and order records of an identifiable individual or groups of individuals.

(24) 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.

(25) A record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.

(26) A proposal pertaining to District procurement or disposal of supplies, services 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 offeror requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability; or the identity of members, notes and other records of District proposal evaluation committees established under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).

(27) A record or information relating to a communication between the District and its insurance carrier, administrative service organization, or risk management office. This paragraph shall 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.

(28) A record or information:

(i) identifying an individual who applies for or receives social services; or

(ii) relating to the following:

(A) the type of social services received by an individual;

(B) an individual's application to receive social services, including a record or information related to an agency decision to grant, deny, reduce, or restrict benefits, including a quasi-judicial decision of the agency and the identity of a caregiver or others who provide services to the individual; or

(C) eligibility to receive social services, including the individual's income, assets, physical, or mental health, age, disability, family circumstances, or record of abuse.

(29) Correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests

assistance or constituent services. This paragraph shall not apply to correspondence between a member of the General Assembly and a principal or lobbyist under 65 Pa.C.S. Ch. 13A (relating to lobbying disclosure).

(30) A record identifying the name, home address, or date of birth of a child 17 years of age or younger.

(c) Financial Records. The exceptions set forth in subsection (b) shall not apply to financial records, except that the District may redact that portion of a financial record protected under subsections (b)(1), (2), (3), (4), (5), (6), (16) or (17). The District shall not disclose the identity of an individual performing an undercover or covert law enforcement activity.

(d) Aggregated Data. The exceptions set forth in subsection (b) shall not apply to aggregated data maintained or received by the District, except for data protected under subsections (b)(1), (2), (3), (4) or (5).

(e) Construction. In determining whether a record is exempt from access under this section, the District shall consider and apply each exemption separately.

14. The District's
Response to
Written Requests
for Access

(a) General Rule. 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 or financial record and whether the District has possession, custody, or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. 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 Superintendent. 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

(b) Extension of Time.

(1) Determination. Upon receipt of a written request for access, the Superintendent shall determine if one of the following applies:

(i) the request for access requires redaction of a record in accordance with section 706 of the Law;

(ii) the request for access requires the retrieval of a record stored in a remote location;

(iii) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;

(iv) a legal review is necessary to determine whether the record is a record subject to access under this act;

(v) the requester has not complied with the District's policies regarding access to records;

(vi) the requester refuses to pay applicable fees authorized by the Law and this

Policy; or

(vii) the extent or nature of the request precludes a response within the required time period.

(2) Notice.

(i) Upon a determination that one of the factors listed in subsection (b) applies, the Superintendent shall send written notice to the requester within five business days of receipt of the request for access under subsection (b).

(ii) The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed for by the Law, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice.

(iii) If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.

(c) Denial. If the District's response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:

(1) A description of the record requested.

(2) The specific reasons for the denial, including a citation of supporting legal authority.

(3) The typed or printed name, title, business address, business telephone number and signature of the Superintendent, on whose authority the denial is issued.

(4) Date of the response.

(5) The procedure to appeal the denial of access under this act.

(d) Certified Copies. If the District's response grants a request for access, the District shall, upon request, provide the requester with a certified copy of the record if the requester pays the applicable fees under section 1307 of the Law.

(e) Record Discard. If the District's response to a requester states that copies of the requested records are available for delivery at the office of the District and the requester fails to retrieve the records within 60 days of the District's response, the District may dispose of any copies which have not been retrieved and retain any fees paid to date.

15. Filing of Appeal and Appeal Procedure

(a) Authorization.

(1) If a written request for access to a record is denied or deemed denied, the requester

may file an appeal with the Office of Open Records within 15 business days of the mailing date of the District's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record or financial record and shall address any grounds stated by the District for delaying or denying the request.

(2) Except as provided by section 503(d) of the Law, the Office of Open Records will assign an appeals officer to review the denial.

(b) Determination.

(1) Unless the requester agrees otherwise, the appeals officer will make a final determination which shall be mailed to the requester and the District within 30 days of receipt of the appeal filed under subsection (a).

(2) If the appeals officer fails to issue a final determination within 30 days, the appeal is deemed denied.

(3) Prior to issuing a final determination, a hearing may be conducted. The determination by the appeals officer will be a final order. The appeals officer will provide a written explanation of the reason for the decision to the requester and the District.

(c) Direct interest.

(1) A person other than the District or requester with a direct interest in the record subject to an appeal under this section may, within 15 days following receipt of actual knowledge of the appeal but no later than the date the appeals officer issues an order, file a written request to provide information or to appear before the appeals officer or to file information in support of the requester's or the District's position.

(2) The appeals officer may grant a request under subparagraph (1) if:

(i) no hearing has been held;

(ii) the appeals officer has not yet issued his or her order; and

(iii) the appeals officer believes the information will be probative.

(3) Copies of the written request will be sent to the District and the requester.

(d) Judicial Review.

(1) General Rule. Within 30 days of the mailing date of the final determination of the appeals officer relating to a decision of a local agency issued under subsection (b)(1) or of the date a request for access is deemed denied, a requester or the District may file a petition for review or other document as required by rule of court with the Court of Common Pleas, as authorized by the Law.

(2) Stay. A petition for review under this section shall stay the release of documents until a decision under subsection (1) is issued.

	<p>(3) <u>Notice</u>. The District, the requester, and the Office of Open Records or designated appeals officer shall be served notice of actions commenced in accordance with this section and shall have an opportunity to respond in accordance with applicable court rules.</p> <p>(4) <u>Record on Appeal</u>. The record before a court shall consist of the request, the District's response, the appeal filed under this section, the hearing transcript, if any, and the final written determination of the appeals officer.</p>
16. <u>Fees</u>	<p>The District will charge fees for postage and duplication of public records in accordance with the Law and as established by the Office of Open Records. The District may waive the fees for duplication of a record, including, but not limited to, when: (a) the requester duplicates the record; or (b) the District deems that it is in the public interest to do so. Prior to granting a request for access in accordance with the Law and this Policy, the District may require a requester to prepay an estimate of the authorized if the fees required to fulfill the request are expected to exceed \$100.</p>
17. <u>Severability</u>	<p>If any provision of this Policy shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the Policy, and the Policy shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in this Policy.</p>
18. <u>Effective Date</u>	<p>This Policy shall apply to requests for information made after December 31, 2008.</p>
19. <u>Repeal</u>	<p>This Policy shall supersede and repeal all District Policies, regulations, and rules and parts thereof that are inconsistent or conflicting herewith.</p>
20. <u>Authority</u>	<p>Right-to-Know Law, Act No. 2008-3 (65 P.S. § 66.101 <i>et seq.</i>)</p>